

Document #4765

LAND DISPOSITION AGREEMENT

BY AND BETWEEN

THE

BOSTON REDEVELOPMENT AUTHORITY

AND

TENANTS' DEVELOPMENT CORPORATION

AND/OR

TDC III LIMITED PARTNERSHIP

LAND DISPOSITION AGREEMENT

THIS AGREEMENT is made and entered into this day of December , 1985, by and between the Boston Redevelopment Authority and Tenants' Development Corporation and/or TDC III Limited Partnership.

Whereas, at a December 19, 1985 meeting of its Board of Directors the Boston Redevelopment Authority has granted final designation status to Tenants' Development Corporation for the purpose of redeveloping certain land in the South End urban renewal area, and

Whereas, Tenants' Development Corporation has formed for the purpose of carrying out these approved redevelopment activities TDC III Limited Partnership, whose General Partner is TDC III Management, Inc. a wholly owned subsidiary of Tenants' Development Corporation,

Now therefore, the parties hereto do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 101: Defined Terms

For the purpose of this Agreement, the following terms shall have the meanings, respectively, ascribed to them below:

- a. "City" shall mean the City of Boston, Massachusetts.
- b. "Authority" shall mean the Boston Redevelopment Authority, a public body, politic and corporate, organized and existing pursuant to Chapter 121B of the Massachusetts General Laws (Ter. Ed.), as amended, and shall include any successor in interest, whether by act of a party to this Agreement or by operation of law or otherwise.

c. "Redeveloper" shall mean TDC III Limited Partnership of 663 Massachusetts Avenue, Boston, Massachusetts, a limited partnership organized under the Massachusetts General Laws, and having a place of business in the City of Boston, Commonwealth of Massachusetts, and shall include any successor in interest or assign, whether by act of a party to this Agreement or by operation of law or otherwise, but shall not mean mortgagees or holders of building loan agreements.

d. The "Property" refers to Parcel SE-20, SE-22, SE-23, SE-43, SE-44 (also known as 390-408 Massachusetts Avenue and 395 and 397 Massachusetts Avenue of the South End Urban Renewal Project Area as more fully described in the Deed Plans attached hereto as Exhibit A and made a part hereof.

e. "Plan" shall mean the South End Urban Renewal Plan, adopted by the Authority on September 23, 1965 and approved by the City Council of the City of Boston on December 6, 1965 and as it may be amended in accordance with the provisions therein contained, a copy of which has been delivered to the Redeveloper. The "term of the Plan" shall mean a period of forty (40) years from and after December 6, 1965. "Plan Area" shall mean the area in the City of Boston to which the said Plan pertains, as indicated by the boundary descriptions and maps therein.

f. "Design Proposal" shall mean the drawings, sketches and Plan submitted to the Authority for its approval, showing the general plan, elevations, dimensions and character of the improvements to be erected including any construction and rehabilitation on the Property by the Redeveloper, including type, amount, distribution and area of the various uses on the Property.

g. "Preliminary Working Drawings and Outline Specifications" shall mean site plans, floor plans, elevations and sections, outline specifications, and models which have been developed to show the detailed architectural character of the improvements to be erected, including rehabilitation, on the Property and their relationship to the approved Design Proposal which shall be submitted to the Authority for its approval.

h. "Final Working Drawings and Specifications" shall mean complete working drawings and specifications, suitable for bidding, including such drawings and specifications for facade treatment samples of materials, and a written statement of the differences, if any, from the approved Preliminary Working Drawings and Specifications, as have been approved by the Authority on December 19, 1985 and which are incorporated herein by reference and made a part hereof.

i. "Improvements" shall mean the rehabilitation of 2 buildings and construction of a new building into 58 housing rental units of mixed income and commercial space to be constructed by the Redeveloper pursuant to the Final Working Drawings and Specifications.

j. "Architect" shall mean the firm of Stull & Lee, Inc., acting pursuant to a contract for architectural services with respect to the Improvements to be erected on the Property, a copy of which contract has been deposited with the Authority, or such firm or contract as shall be substituted by the Redeveloper with the prior written consent of the Authority.

k. "HUD" shall mean the Department of Housing and Urban Development or any duly authorized representative thereof.

l. "Director" shall mean the Director of the Boston Redevelopment Authority, or any person designated by him to act in his behalf.

m. "Chapter 121A" shall mean Chapter 121A of the General Laws of the Commonwealth of Massachusetts, as amended.

n. "Deed" shall mean the instrument, to be recorded with this Agreement in Suffolk County Registry of Deeds in Boston, Massachusetts, whereby the Property is conveyed to the Redeveloper.

o. "Deed Plans" shall mean Exhibit "A" attached hereto and recorded with the Deed.

p. "Closing Date" shall mean the date referred to in Section 204 of this Agreement.

q. "MHFA" shall mean the Massachusetts Housing Finance Agency or any duly authorized representative thereof.

ARTICLE II

TRANSFER OF THE PROPERTY AND PAYMENT THEREFOR

Section 201: Covenant of Sale

Subject to all of the terms, covenants and conditions of this Agreement, the Authority agrees to sell and convey and the Redeveloper covenants and agrees to purchase the Property.

Section 202: Condition of Land to be Conveyed

The Authority and the Redeveloper covenant and agree that the Property shall be conveyed in "as is" condition, free and clear of all tenants and occupants, except as may be provided in Section 210 hereof and except that the Redeveloper, as successor-in-interest to the Authority, may pursue the rights or remedies, if any, the Authority has in connection with any damage or loss to the Property suffered in connection with the construction by the Massachusetts Bay Transportation Authority of structures adjacent to or nearby the Property.

Section 203: Purchase Price and Payment Therefor -

The purchase price for the Property shall be \$217,000. Part of this amount may be paid, up to an amount not to exceed 50% of the purchase price, of \$108,500, to the extent so certified by delivery to the Authority in form satisfactory to it, by a certification that the Redeveloper has incurred and paid costs for construction of special improvements required by the Authority to make the improvements more consistent with the architecture of the neighborhood and integrate better with

the immediate surroundings. Such special improvements, may include but are not limited to: landscaping and paving improvements to areas of public use, special architectural features, including bay windows, on the rear elevation of the building visible from the Southwest Corridor parkland, special masonry detailing, and the like.

The net amount after deductions for certified special improvements and the deposit, shall be paid in six equal, annual installments beginning on the date of the issuance of a Certificate of Completion. Subsequent payments shall be made on the anniversary of the issuance of the Certificate of Completion. For example, if the certified special improvements total \$108,500, and the deposit is \$12,500, the net amount to be paid beginning upon issuance of the Certificate of Completion will be \$96,000 payable \$16,000 per year for six years. Late payments will accrue interest at the Prime rate of the Bank of Boston.

Section 204: Time of Sale and Conveyance

The sale and conveyance and delivery of possession of the Property and the purchase of the same by the Redeveloper, shall take place at a date as may be agreed upon by the parties, no later than December 31, 1985, at the office of the Authority at City Hall, Boston, Massachusetts.

Section 205: Title and Instrument of Conveyance

a. The sale and conveyance shall be by Quitclaim Deed of good and marketable fee simple title free and clear of all liens and encumbrances, but subject to and with the benefit of all conditions, covenants, easements, and restrictions set forth or referred to in this Agreement and the Plan or in either hereof.

b. The Authority shall make a valid and effective confirmatory taking of the Property as shown on the Deed Plans, prior to the Closing Date.

Section 206: Federal Tax Stamps and Other Closing Costs

The Redeveloper shall pay the costs of any Federal or State documentary tax stamps which shall be required, and the cost of recording the Deed, this Agreement, and all other instruments and plans to be recorded together with the Deed.

Section 207: Adjustments

The Authority shall pay all taxes, sewer and water charges and other assessments or charges allocable with respect to any period before delivery and conveyance to the Redeveloper of the Deed hereunder. Taxes, charges or assessments allocable with respect to any period after delivery to the Redeveloper of a Deed hereunder shall be paid by the Redeveloper. In the event any Parcel is exempt from taxation on the assessment date next preceding the conveyance hereunder by virtue of title being vested in the Authority or other tax exempt entity, the Redeveloper shall pay the Authority, in lieu of a tax adjustment, a pro rata amount of the taxes which would have been payable to the City of Boston if such parcel had not then been exempt from taxation, for that portion of the tax year during which the Redeveloper has title and possession. This payment in lieu of taxes shall be computed using the purchase price as the assumed assessment on the Property and using the tax rate for the current tax year if it is known, and if it is not known, the estimated tax rate established by the City Assessor. This adjustment and payment in lieu of taxes shall be deemed satisfied as the Redeveloper has agreed that it will fully comply with the requirements and provisions of Chapter 121A, Section 10. All closing costs and adjustments, if any, shall be paid to the Authority upon delivery of the Deed to the Property. The provisions of this Section shall survive delivery of the Deed.

Section 208: Conditions Precedent to Commencement of Construction

The Redeveloper shall not begin the construction of Improvements on the Property unless and until the events listed in this Section 208 have all occurred. However, if the Redeveloper is unable to begin the construction of the Improvements on the Property within ninety (90) days of the delivery of the Deed to the Redeveloper because the following events have not occurred, the provisions of Section 802 hereof shall apply.

- a. Final Working Drawings and Specifications for the Property have been submitted by the Redeveloper and approved by the Authority as provided in Section 302 hereof

b. The Redeveloper has entered into a contract, satisfactory in form to the Authority, with a construction or building company under which contract such construction or building company shall have full and complete continuing responsibility to the Redeveloper for the construction of the Improvements as required herein, and a copy of this contract has been approved by and deposited with the Authority, which contract shall not be changed without prior written consent of the Authority.

c. The Redeveloper has furnished the Authority with a performance and payment surety bond or other assurance of completion running to the Redeveloper, HUD, the mortgagee, and the Authority as their interest may appear, satisfactory in form to the Authority.

d. The Redeveloper has furnished evidence satisfactory to the Authority that the Redeveloper has the equity capital and commitments for mortgage financing adequate for the construction of the Improvements in accordance with said approved Final Working Drawings and Specifications and the construction contract.

e. The Redeveloper has submitted a Letter of Intent executed by its construction contractor, substantially in the form attached hereto, marked Exhibit "B", and made a part hereof, in which the Contractor undertakes to carry out all of the provisions of this Agreement in the Section entitled "Nondiscrimination in Employment" and the requirements of (i) the Authority's "Equal Opportunity Compliance Policy" adopted February 20, 1969, and (ii) the "Commonwealth of Massachusetts Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program", and (iii) the City of Boston's "Contract Compliance Program", copies of which have been marked Exhibit "C", "D" and "E", respectively, and are attached hereto and made a part hereof.

f. The Redeveloper has obtained a Building Permit from the City of Boston Building Department and has paid all application fees in connection therewith, and the Improvements described in the Building Permit are in accordance with the Final Working Drawings and Specifications approved by the Authority pursuant to Section 302 hereof.

g. The Redeveloper has delivered to the Authority as a good faith deposit the amount of \$12,500.00 by certified or registered check drawn to the order of the Authority. Interest, if any, on such deposit shall remain the property of the Redeveloper, but the Authority shall not be obligated to earn any interest on the deposit.

Section 209: Default by Authority

In the event that the Authority shall be unable to give title or to make conveyance or to deliver possession of the Property as provided for herein, then all obligations of the parties hereunder shall cease and this Agreement shall be void and the parties without recourse thereunder, unless the Authority shall elect to use reasonable efforts to remove any defect in title or to deliver possession as herein agreed, as the case may be, in which event the Authority shall give written notice thereof to the Redeveloper at or before the time for performance by the Authority hereunder, and thereupon the time for the performance by the Authority shall be extended for a period of ninety (90) days, or such longer period as the Authority and the Redeveloper shall mutually agree; provided, however, that the Redeveloper shall have the election, either at the original or any extended time for performance, to accept such title or possession as the Authority can deliver to the Property and to pay therefor without deduction, in which case the Authority shall convey such title to the Redeveloper. In the event that at the expiration of the extended time the Authority shall be unable to give title or to make conveyance or to deliver possession as herein provided; then (1) the deposit, if any, together with any interest earned thereon, shall be refunded, but only if the deposit has not been retained by the Authority pursuant to Section 801 or 802 herein, provided, however, that nothing herein contained shall require the Authority to earn any interest on the deposit; (2) all obligations of the parties hereto shall cease; and (3) this Agreement shall be void and without recourse to the parties hereto. The acceptance of a Deed by the Redeveloper shall be deemed a full performance and discharge of every agreement and obligation herein contained with respect to the Property, except such as are to be performed after the delivery of the Deed.

Section 210: Condition of Land to be Conveyed

a. The Property shall be conveyed free of all tenants and occupants.

ARTICLE III

RESTRICTIONS AND CONTROLS UPON REDEVELOPMENT

Section 301: Restrictions on Use

a. The Redeveloper agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, and the Deed shall contain covenants on the part of the Redeveloper for itself, and its successors and assigns, that the Redeveloper, its successors and assigns shall:

1. Devote the Property only to and in accordance with the uses specified in the Plan; and
2. Give preference in the selection of tenants for dwelling units built on the Property, first, to families displaced from the Property because of clearance and redevelopment activity, and second, to other families displaced from the Plan Area by clearance and redevelopment activity or by other governmental activities, who desire to occupy such dwelling units and will be able to pay rents or prices equal to rents or prices charged other families for similar or comparable units built as part of the improvements.
3. Not discriminate upon the basis of race, color, sex, religion or national origin in the sale, lease or rental or in the use or occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof.
4. Devote 48 units to be constructed on SE-20, SE-22, SE-43 and SE-44 as follows: 25% to low income persons, 40% to moderate income persons and 35% market rate units. The rehabilitation of SE-22 and SE-23 shall provide 10 units at the rate of 20% low income, 60% medium income and 20% market rate units.

The requirements of this Section 301(a)(4) are subject to the Redeveloper, its successors and assigns receiving a commitment from the City of Boston Neighborhood Development Fund in the amount of \$119,784 per year increasing at 5% per year for 15 years.

b. The Redeveloper agrees to comply with all applicable rules and orders issued by the Department of Housing and Urban Development.

which prohibit the use of lead-based paint in residential structures undergoing Federally-assisted construction or rehabilitation and requiring the elimination of lead-based paint hazards.

c. It is intended and agreed, and the Deed shall so expressly provide, that the covenants provided in subsection (a) of this Section shall be covenants running with the land binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, the Authority, its successors and assigns, the City of Boston, and in the case of the covenant provided in subparagraph (3) of subsection (a) the United States, both for and in its or their own right and also to protect the interest of the community and other parties, public and private, in whose favor or for whose benefit the covenants have been provided, against the Redeveloper, its successors and assigns, and every successor in interest to the Property or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof. It is further intended and agreed that the covenants provided in subparagraphs (1) and (2) of subsection (a) shall remain in effect for the term of the Plan, or until such date thereafter to which such term may be extended by proper amendment of the Plan. The covenant provided in subparagraph (3) of subsection (a) shall remain in effect without limitation as to time. The terms "uses specified in the Plan" and "land use" referring to provisions of the Plan or similar language, in this Agreement shall include the land and all buildings, housing, and other requirements or restrictions of the Plan pertaining to such land.

d. In order to effectuate the provisions of subparagraph (2) and (3) of subsection (a) of this Section and Section 308, the Redeveloper agrees to submit to the Authority all materials regarding its rental program, including but not limited to, advertising matter, brochures, leases, proposals for establishment of rental offices, for review of all aspects of said program which relate to or have an effect upon the selection of tenants. The Redeveloper further agrees to inform the Authority by ten (10) days prior written notice thereof of its intention to permit

initial occupancy of the Improvements built on the Property, and will not under any circumstances permit such occupancy without the prior written approval of the Authority. The Redeveloper shall not proceed with any aspect of its rental program to which the Authority objects, and agrees to follow all reasonable suggestions of the Authority with respect thereto, provided, however, that the Authority shall not require the Redeveloper to take any action inconsistent with or which impose more burdensome requirements than the terms of any agreement between HUD and the Redeveloper, copies of which shall have been deposited with the Authority.

e. The Redeveloper agrees for itself, its successors and assigns, that during construction and thereafter, the Redeveloper, and its successors and assigns, shall develop and carry out to the Authority's reasonable satisfaction a program of advertising for the sale and/or rental of the whole and any individual parts or parcels of the Property, and shall include in all such advertising (including signs), the legend "An Open Occupancy Building", in type or lettering of easily legible size and design. The word "Project" or "Development" may be substituted for the word "Building" where circumstances require such substitution.

f. The Redeveloper agrees for itself, its successors and assigns, that during construction and thereafter, the Redeveloper, and its successors and assigns, shall include in all such advertising for the sale or rental of the Property, a statement to the effect: (a) that the Property is open to all persons without discrimination on the basis of race, color, sex, religion or national origin; and (b) that there shall be no discrimination in public access and use of the Property to the extent that it is open to the public.

Section 302: Improvements and Submission of Plans

a. The Property shall be used for rehabilitation of 2 buildings and construction of a new building into 58 housing rental units of mixed

income and commercial space, to be built in accordance with the Final Working Drawings and Specifications and the applicable standards and controls of the Plan.

b.

No work shall be done on the construction of the Improvements to be erected on the Property unless such work conforms in every respect with such approved Final Working Drawings and Specifications, except and only to the extent that modifications thereof have been requested by the Redeveloper in writing and have been approved in writing by the Authority.

It is agreed that any and all Change Orders issued and implemented subsequent to approval by the Authority of Final Working Drawings and Specifications constitute a deviation from said approved Final Working Drawings and Specifications. The Redeveloper agrees that no such Change Order will be issued or implemented unless such Change Order shall have been submitted to and approved in writing by the Authority prior to its issuance or implementation. If the Authority shall neither approve or disapprove in writing within thirty (30) days of receipt of such Change Order then it shall be treated as having been approved.

In the event the Redeveloper shall fail to comply with the foregoing requirements, the Authority may, within a reasonable time after discovery thereof by the Authority, direct in writing that the Redeveloper so modify or reconstruct such portion or portions of the Improvements erected or being erected on the Property as are not in conformance with the approved Final Working Drawings and Specifications, or any approved modifications thereof, or Change Order therefor as to bring them into conformance therewith. The Redeveloper shall promptly comply with

such a directive. In addition to any other remedies available under this Agreement, the Authority may enforce the provisions of this subsection 302 (b) by an action in a court of appropriate jurisdiction to compel specific performance.

c. In submitting all plans and specifications to the Authority for its approval, the Redeveloper shall consider and take into account the planning and design objectives set forth in the Plan and in the Design Proposal, and the Authority shall pursue such objectives in its review of and action upon the plans and specifications so submitted.

d. The Redeveloper shall not discharge the Architect without cause or hire new or additional architects or alter or amend the contract for architectural services between the Architect and the Redeveloper without in each instance obtaining the prior written consent of the Authority. All HUD requirements concerning the employment and services of architects shall also be observed.

e. No sign shall be erected or placed on the exterior of any building on the Property, nor on any portion of the Property which is not enclosed within a building, unless the character, location, design, size, shape, form and lighting of such sign shall have been approved by the Authority in writing. Without limiting in any way the scope of the Authority's review, no sign shall be approved which does not meet the following standards. Signs may only be erected or placed upon the ground floor street facade of each store, if any, or other individual user. No signs will be permitted on awnings or marquee, if any, nor on projections, if any, over the sidewalk. All signs shall be belt type. Flashing, illuminated signs, exposed neon signs or signs other than those relating to businesses on the site, if any, shall not be permitted.

Section 303: Time for Commencement and Completion of Construction

a. The Redeveloper shall cause the events listed in Section 208 hereof to occur and shall begin the construction of the Improvements on the Property in accordance with the approved Final Working Drawings and Specifications not later than ninety (90) days after delivery of the Deed to the Redeveloper.

b. The Redeveloper shall diligently prosecute to completion the construction of the Improvements on the Property and shall complete such construction not later than twenty-four (24) months from the date of the delivery and conveyance of the Deed, or as may be extended by permission of the Authority, which shall not be unreasonably withheld.

c. The Redeveloper shall submit to the Authority for its approval a detailed estimated progress schedule at the time construction is begun in a format generally used in the construction of buildings. This schedule shall be resubmitted each month until the construction of the Improvements has been completed, with actual progress shown in each submission. This monthly submission shall be accompanied by a written report by the Redeveloper citing any adjustments to the progress forecast, analyzing the causes thereof, and, where applicable, noting corrective efforts which shall be reasonably satisfactory to the Authority. After the sale and conveyance and delivery of possession of the Property to the Redeveloper and during the period of the Plan, such work of the Redeveloper shall be subject to inspection by representatives of the Authority, of the City, HUD, and the United States of America, and the Authority shall notify the Redeveloper promptly of any defects observed by it. Upon receipt of such notification, the Redeveloper shall promptly undertake and proceed diligently to cure any such defects to the reasonable satisfaction of the Authority.

d. Prior to the sale and conveyance and delivery of possession of the Property, the Authority shall permit the Redeveloper access thereto, whenever and to the extent necessary to carry out the purposes of this Agreement.

e. It is intended and agreed that the agreements and covenants contained in this Section 303 with respect to the beginning and completion of the Improvements on the Property shall be covenants running with the land. This subsection shall not, however, apply against a mortgagee

permitted by this Agreement unless the mortgagee shall elect to complete as permitted in Section 403, in which case the extension provisions of that Section shall apply.

Section 304: When Improvements Completed

The building of Improvements on the Property shall be deemed completed for the purposes of this Agreement when the Improvements required of the Redeveloper by the provisions of this Agreement, the approved Final Working Drawings and Specifications, and any approved modifications thereof, have been built and are ready for occupancy, and shall incontestably be deemed completed for the purposes of this Agreement upon the issuance of a Certificate of Completion by the Authority.

Promptly after completion of the Improvements in accordance with the provisions of this Agreement, the Authority will furnish the Redeveloper with an appropriate instrument so certifying. Such certification by the Authority shall be, and it shall be so provided in the Deed and in the certification itself, a conclusive determination of satisfaction and termination of the Agreements and covenants in this Agreement and in the Deed with respect to the obligations of the Redeveloper and its successors and assigns, to construct the Improvements, provided that such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Redeveloper to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the Improvements, or any part thereof on the purchase of the Property.

With respect to such individual parts or parcels of the Property which the Redeveloper is authorized by Section 401 of this Agreement to convey or lease as the Improvements to be constructed thereon are completed, the Authority will also, upon proper completion of the Improvements relating to any such part or parcel certify to the Redeveloper that such Improvements have been made in accordance with the provisions of this Agreement. Such certification shall mean and provide (and the Deed shall so state): (1) that any party purchasing or leasing such individual part or parcel pursuant to the authorization herein contained shall not (because of such purchase or

lease) incur any obligation with respect to the construction of the Improvements relating to such part or parcel or to any other part or parcel of the Property; and (2) that neither the Authority nor any other party shall thereafter have or be entitled to exercise with respect to any such individual part or parcel so sold (or in the case of lease, with respect to the leasehold interest) any rights or remedies or controls that it may otherwise have or be entitled to exercise with respect to the Property as a result of a default in or breach of any provisions of this Agreement or the Deed by the Redeveloper or any successor in interest or assign, unless (i) such default or breach be by the purchaser or lessee, or any successor in interest or assign of or to such individual part or parcel with respect to the covenants and obligations required to be assumed pursuant to Section 401 of this Agreement, and (ii) the right, remedy, or control relate to such default or breach. All certification provided for in this Section shall be in such form as will enable them to be recorded in the Registry of Deeds for Suffolk County, Commonwealth of Massachusetts. If the Authority shall refuse or fail to provide any certification in accordance with the provisions of this Section, the Authority shall, within thirty (30) days after receipt by the Authority of a written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Improvements in accordance with the provisions of this Agreement or is otherwise in default and what measures or acts it will be necessary, in the opinion of the Authority, for the Redeveloper to take or perform in order to obtain such certification.

The Redeveloper agrees that the Authority shall be under no obligation to issue a Certificate of Completion until such time as the Authority has had a reasonable opportunity to inspect the Improvements constructed pursuant to the provisions of this Agreement, the approved Final Working Drawings and Specifications, and any approved modifications thereof, provided however, that the Authority shall not be required to make an inspection hereunder unless the Redeveloper has requested in writing that the Authority issue a Certificate of Completion.

Section 305: Prompt Payment of Obligations

The Redeveloper shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms and corporations doing any work, furnishing any materials or supplies or renting any equipment to the Redeveloper or any of its contractors or subcontractors in connection with the development, construction, furnishing, repair or reconstruction of any of the improvements required by this Agreement to be constructed upon the Property.

Section 306: Non-Discrimination in Employment

The Redeveloper, for itself, its successors and assigns, agrees that in the construction of the Improvements in accordance with the provisions of this Agreement.

a. The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, sex, religion or national origin. The Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Authority setting forth the provisions of this non-discrimination clause.

b. The Redevelopment will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

c. The Redeveloper will send to each labor union or representative of workers with which the Redeveloper has a collective bargaining agreement or other contract of understanding, a notice, to be provided advising the said labor union or worker's representative of the Redeveloper's commitments under Section 202 of Executive Order 11246 of

of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Redeveloper will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. Redeveloper, for itself and all successors and assigns, further agrees that in the redevelopment of the property and in all construction activity undertaken with respect thereto, Redeveloper shall pursue the efforts and cause the general contractor to pursue the efforts hereinafter described with a goal to employ workers in construction so that the worker hours on a craft-by-craft basis shall be performed as follows, to the extent permitted by law:

at least 50% by bona fide City of Boston residents;

at least 25% by minorities; and at least 10% by women.

Such efforts consist of the following:

(1) Redeveloper shall incorporate in every general construction contract or construction management agreement an enumeration of the foregoing worker hour goals and shall impose a responsibility upon the contractor to pursue the efforts enumerated in this Section f. and to incorporate such worker-hour goals in all subcontracts and impose upon all subcontractors the obligation to pursue such efforts;

(2) Authority, Redeveloper, contractor, and every subcontractor shall each designate an individual to serve as affirmative action officer for the purpose of carrying out the efforts to achieve worker hour goals set forth herein;

(3) Contemporaneously with the start of construction, the affirmative action officers and other interested representatives of the Authority, Redeveloper, contractor, and each subcontractor then selected shall hold a pre-job conference with appropriate union representatives of the construction trade unions for the purpose of reviewing the worker hour goals applicable to the improvements and the manning requirements for construction activity over the life of the construction period:

(4) Each request for qualified construction workers made by any person involved in the construction of the improvements to a union hiring hall or business agent shall contain a recitation of such worker hour goals and a request that qualified referees for construction position on the improvements be selected in the same proration as such goals: provided however, that if at the time of any such manning requests the requesting party's workforce composition falls short of any one or more of such goals, such manning request shall seek qualified referees in such proration among such categories as would be necessary to more fully achieve such goals. In the event that the union hiring hall or business agent to which or whom such a manning request has been submitted fails to comply with such request, the affirmative action officer of such requesting party shall seek to verify that insufficient workers in the categories specified in such request are then shown on the unemployed list maintained by such union hiring hall or business agent by seeking to obtain an affidavit from the union hiring hall representative or business agent to such effect. Copies of any affidavit so obtained shall be forwarded to the affirmative action officer of the Authority.

(5) All persons applying directly to the contractor, or subcontractor for employment in construction on the project who are not employed by the party to whom application is made will be referred to the affirmative action officer of the Authority and a written record of such referral shall be made, a copy of which shall be sent to such officer; and

(6) Redeveloper, contractor, and every subcontractor shall each maintain records reasonably necessary to ascertain compliance with the requirements of this Section for at least one year after the issuance of the Certificate of Completion and will make the same available for inspection by the Authority upon reasonable notice.

f. Redeveloper, for itself and all successors and assigns, further agrees that in the redevelopment of the property, Redeveloper shall comply and shall require its general contractor, to comply with the Mayor's Executive Order "Encouraging Minority Business Enterprise" dated June 28, 1978 effective July 1, 1978.

g. Redeveloper, for itself and all successors and assigns, further agrees that in the redevelopment of the property, Redeveloper shall comply with the provisions of the property. Redeveloper shall comply with the provisions of the First Source Agreement relating to employment positions for city residents.

h. The Redeveloper will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or the Secretary of Housing and Urban Development pursuant thereto, and will permit access to the Redeveloper's books, records, and accounts by the Authority, the Secretary of Housing and Urban Development, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

i. In the event of the Redeveloper's noncompliance with the non-discrimination clauses of this Section, or with any of the said rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Redeveloper may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375 of October 13, 1967, and such other

sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.

j. The Redeveloper will include the provisions of Paragraphs (a) through (g) of this Section in every employment contract, whether union or nonunion, and in every other contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of his contractors, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, so that such provisions will be binding upon each such contractor, subcontractor, or vendor as the case may be. The Redeveloper will take such action with respect to any construction contract, subcontract, or purchase order as the Authority or the Department of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the Redeveloper becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Authority or the Department of Housing and Urban Development, the Redeveloper may request the United States to enter into such litigation to protect the interest of the United States.

For the purpose of including such provisions in any construction contract, subcontract, or purchase order, as required hereby, the first three lines of this Section shall be changed to read: "During the performance of this Contract, the Contractor/Subcontractor/Vendor agrees as follows:" and the term "Redeveloper" as it appears throughout this Section shall be changed to "Contractor", "Subcontractor", or "Vendor", as the case may be.

Section 307: Access to the Property by Authority and City Personnel

The Redeveloper, its successors and assigns, shall from time to time until the expiration of the term of the Plan, at all reasonable hours, give to the duly authorized representatives of the Authority, the City, and the

United States of America, free and unobstructed access for inspection purposes to any and all of the Improvements constructed on the Property by the Redeveloper, its successors and assigns, and to all open areas surrounding the same.

Section 308: Preference to be Given to Displacees

The Redeveloper agrees to give preference in the selection of tenants for dwelling units built on the Property to displaced families in accordance with the following schedule of priorities; provided, however, that such persons are eligible for occupancy under applicable regulations, will be able to pay rents or prices equal to rents or prices charged other families for similar or comparable units built as part of the same Improvements, and meet all other applicable standards of the Redeveloper, which standards shall have been submitted to the Authority.

- a. To persons displaced from the Property.
- b. To persons displaced from the Plan Area by clearance and redevelopment activities or by other governmental activities.

In the event that the Redeveloper shall fail to grant preference to displaced site occupants in accordance with this Section, the Authority may institute such action and proceedings as may be necessary to effectuate the purpose of this Section, including suits to compel specific performance by the Redeveloper. Damages, expenses, and costs to the Authority and damages, expenses and costs accruing to the displaced site occupant to whom such preference has been denied, resulting from such actions and proceedings, shall be paid by the Redeveloper. This Section is subject to Section 301(a)(4).

ARTICLE IV

TRANSFER AND MORTGAGE OF REDEVELOPER'S INTEREST

Section 401: General Terms Relating to Transfer of Interest in Property by Redeveloper

- a. Prior to the completion of the construction of the Improvements on the Property in accordance with Section 304 of this Agreement, no

interest or portion thereof of any general partner of the Redeveloper or any stockholder in such general partner (which terms shall be deemed to include successors in interest of such interest), shall be transferred, or caused or suffered to be transferred, except as involuntary transfer caused by the death or incapacity of any such party or except as provided in Section 402 hereof, without the written approval of the Authority; nor without such written approval, shall there be any other change in the ownership of such general partner at the Redeveloper or change in identity of the parties in control, or in the degree of control of the general partner of the Redeveloper, by any other methods or means. The Redeveloper shall advise the Authority of any and all such proposed changes in ownership and shall in addition furnish the Authority with an up-to-date list of all present and proposed new owners thereof, setting forth the amounts of such interest owned or to be owned by each owner, and with any other information relating to such proposed change which the Authority shall require.

b. The Redeveloper agrees that it will not, after delivery of the Deed and prior to the completion of the construction of all the improvements on all parts and parcels of the Property, make or suffer to be made, any assignment, lease, or any other manner of transfer of its interest in the Property or portion thereof, or in this Agreement, except as provided in Section 402, and except that leases of individual rental units within buildings may be entered into provided that rental payments commence only upon completion and certification pursuant to Section 304 of the unit leased, unless it shall have complied with the following conditions:

1. The transferee or transferees shall have been approved as such in writing by the Authority.
2. The transferee or transferees, by valid instrument in writing, satisfactory to the Authority, shall have expressly assumed for themselves and their successors and assigns, and directly to and for the benefit of the Authority, all obligations of any person or persons, including the Redeveloper, to begin, complete, and or

maintain and operate, as applicable, the Improvements and all obligations of the Redeveloper provided for in this Agreement including the obligations of performance in accordance with the Plan. Provided, that: the fact that any transferee of, or any other successor in interest whatsoever to the Property, or any part thereof, shall for whatever reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) relieve or except such transferee or successor of or from obligations, conditions, or restrictions, or deprive or limit the Authority of or with respect to any rights or limitations or controls with respect to the Property or the construction of the Improvements; it being the intent of this, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of or change, with respect to ownership, possession, or control, shall operate legally or practically, to deprive or limit the Authority of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Property and the construction of the Improvements that the Authority would have, had there been no such transfer or change. In the event of any such transfer without such assumption of obligations, the Redeveloper shall pay to the Authority the expenses and costs of any actions or proceedings instituted to enforce all such obligations, conditions, and restrictions, and all of the Authority's said rights, remedies, and controls as against such transferee. Therefore, in the absence of a specific written agreement by the Authority to the contrary, no such transfer or approval thereof by the Authority shall be deemed to relieve the Redeveloper or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Improvements from any of its obligations with respect thereto.

3. Any consideration obtained by the Redeveloper from the transferee or transferees in excess of an amount representing the actual cost to the Redeveloper of the Property or interest therein transferred, including the cost of any improvements made thereon and carrying charges, shall be paid over to the Authority.

4. There has been submitted to the Authority for review, and the Authority has approved, all instruments and other legal documents involved in effecting transfer.

5. The Redeveloper and its transferee or transferees shall comply with such other conditions as the Authority may find desirable in order to achieve and safeguard the Plan.

c. In the event of any violation by such a transferee of any part or parcel of the property of any obligation assumed or required to be assumed under Subsection b of this Section, which violation shall occur prior to receipt of the last and final certificate of completion granted pursuant to Section 304 for the last part or parcel of the Property, the Redeveloper shall be responsible, jointly and severally with the transferee, for curing or effecting the cure of such violation. If the Redeveloper shall fail or refuse to effect such cure, the Authority may institute such actions or proceedings against the transferee and/or the Redeveloper as the Authority deems appropriate, including actions and proceedings to compel specific performance. Payment of all costs and expenses which may be incurred by the Authority in instituting and prosecuting such actions or proceedings shall be governed by Section 601 of this Agreement.

d. After completion of the improvements, as certified by the Authority, the Redeveloper may assign or otherwise transfer any portion of or interest in the Property, or any interest in the Redeveloper may be assigned or transferred, to the extent permitted by and subject to the provisions of this Agreement, Chapter 121A if applicable, the Plan, and applicable rules and regulations of HUD and MHFA.

Section 402: Mortgage of Property by the Redeveloper

Notwithstanding any other provisions of this Agreement, but subject to Chapter 121A and the application and Regulatory Agreement thereunder, if applicable, the Redeveloper shall at all times have the right to encumber, pledge, or convey its rights, title and interest in and to the Property, or any portion or portions thereof, and partners of the Redeveloper, if any, shall have at all times the right to encumber their individual partnership interests, by way of a bona fide mortgage to secure the payment of any loan or loans obtained by the Redeveloper to finance the development, construction, repair or reconstruction of any of the Improvements required to be constructed by the Redeveloper on the Property by the Plan and this Agreement, or to refinance any outstanding loan or loans therefor obtained by the Redeveloper for any such purpose; provided, however, that the Redeveloper and its individual partners, as the case may be, shall give prior written notice to the Authority of its or their intent to exercise such rights hereunder, including in such notice the name(s) and address(es) of such mortgagee(s) and any other information regarding the mortgagee(s) and mortgage documents which the Authority may require.

The holder of any such mortgage (including a holder who obtains title to the Property or any portion thereof by foreclosure or action in lieu thereof, but not including a party who obtains title through such holder or any purchaser at a foreclosure sale other than the holder) shall not be obligated by this Agreement to construct or complete the Improvements or to guarantee such construction or completion, but shall have the options described in Section 403.

Section 403: Rights and Duties of Mortgagee Upon Acquisition Prior to Completion

- a. If a mortgagee, through the operation of its contract to finance the Improvements required by this Agreement to be constructed by the Redeveloper on the Property, or by foreclosure, acquires fee simple title to the Property or any part thereof prior to the completion of such Improvements, the mortgagee shall have the following options:

1. complete construction of such Improvements in accordance with the approved Final Working Drawings and Specifications, the Site Plan, the Plan and this Agreement, and in all respects comply with the provisions of this Agreement, or

2. sell, assign, or transfer, with the prior written consent of the Authority, fee simple title to the Property or any part thereof to a purchaser, assignee or transferee who shall expressly assume all of the covenants, agreements and obligations of the Redeveloper under this Agreement in respect of the Property or part thereof, by written instrument satisfactory to the Authority and recorded forthwith in the Suffolk County Registry of Deeds, or

3. reconvey fee simple title to the Property or part thereof to the Authority, in which event the provisions of Section 802 relative to resale shall apply.

b. In the event that a mortgagee elects to complete construction pursuant to (a) (1) above, or sells, assigns or transfers pursuant to (a) (2) above, the Authority shall extend the time limits set forth in Section 303 herein as shall be reasonably necessary to complete construction of the Improvements, and upon such completion, the mortgagee or purchaser, as the case may be, shall be entitled to the Certificate(s) of Completion pursuant to Section 304.

Section 404: Rights and Duties of Mortgagee Upon Acquisition

After Completion

If a mortgagee, through the operation of its contract to finance the improvements required by this Agreement to be constructed by the Redeveloper on the Property, or by foreclosure acquires the mortgage or fee simple title to the Property or any portion thereof after completion of such Improvements, the mortgagee for the period during which said mortgagee holds such title, shall comply with applicable provisions of this Agreement.

ARTICLE V

PROVISIONS RELATING TO OPERATION AND MAINTENANCE

Section 501: Maintenance and Operation of Improvements

The Redeveloper shall, at all times until the expiration of the term of the Plan, keep the Improvements constructed on the Property in good and safe condition and repair unless such Improvements shall have become uninsurable, and in the occupancy, maintenance and operation of such Improvements, the Property shall comply with the terms and conditions of the Plan and with all laws, ordinances, codes and regulations applicable thereto.

Section 502: Additions or Subtractions to Completed Improvements

After the Improvements required by the Plan and this Agreement to be constructed by the Redeveloper on the Property or any portion thereof have been completed, the Redeveloper shall not, until the expiration of the term of the Plan, reconstruct, demolish, subtract therefrom, make any additions thereto or extensions thereof, or change the materials, design, dimensions or color thereof, if such reconstruction, demolition, subtraction, addition, extension or change will affect in any way the external appearance of public lobbies, arcades, open spaces or landscaping, or the external appearance of any building (including roof and penthouse) without the prior written approval of the Authority. In the event the Redeveloper shall fail to comply with the foregoing requirement, the Authority may within a reasonable time after its discovery thereof, direct in writing that the Redeveloper so modify, reconstruct or remove such portion or portions of the Improvements as were reconstructed, demolished or subtracted from or added to or extended or changed without the prior written approval of the Authority. The Redeveloper shall promptly comply with such a directive, and shall not proceed further with such reconstruction, demolition, subtraction, addition, extension or change until such directive is complied with. Any such reconstruction, demolition, subtraction, addition, extension or change undertaken pursuant to the prior written approval of the Authority shall in all respects be in accordance with and conform to the provisions of the Plan.

ARTICLE VI

INDEMNIFICATION

Section 601: Reimbursement of Authority in Respect of Certain Litigation

The Redeveloper shall pay all reasonable costs and expenses, and the amounts of all judgements and decrees which may be incurred by the Authority, in any proceedings brought to enforce the obligations of the Redeveloper set forth in the provisions of this Agreement. It is expressly understood, however, that the mortgagee under any mortgage permitted hereunder shall not be liable to the Authority for any costs, expenses, judgements, decrees or damages which shall have accrued against the Redeveloper except that a mortgagee who becomes a mortgagee after, and who acquires title after the Redeveloper has become liable for any costs, expenses, judgements, decrees or damages, shall be liable for such liabilities.

ARTICLE VII

INSURANCE

Section 701: Insurance Coverage

a. Until the expiration of the term of the Plan, the Redeveloper shall keep all of the insurable property and equipment in respect of the Property insured by fire and extended insurance and additional risk insurance to the same extent and amount which is normally required by institutional mortgagees in the use of similar property and equipment in the City. Such insurance shall be in an amount sufficient to comply with the co-insurance clause applicable to the location and character of the property or equipment, and, in any event, in amounts not less than eighty per centum (or eighty per centum in the case of extended coverage insurance) of the current cash value of such property or equipment. All such insurance shall be by standard policies, obtained from financially sound and responsible insurance companies authorized to do business in Massachusetts, and shall have attached thereto a clause making the loss payable to the Redeveloper, the mortgagee, and, subject to the rights of the mortgagee, the Authority as their respective interests may appear.

b. Each insurance policy shall be written to become effective at the time the Redeveloper becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Redeveloper is subject to such risk or hazard.

c. Certificates of such policies and renewals shall be filed with the Authority.

Section 702: Non-Cancellation Clause

All insurance policies shall provide that any cancellation, change or termination thereof shall not be effective with respect to the Authority until after at least ten(10) days prior notice has been given to the Authority to the effect that such insurance policies are to be cancelled, changed, or terminated at a particular time.

Section 703: Authority May Procure Insurance if Redeveloper Fails to Do So

If the Redeveloper at any time refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Agreement, the Authority at its option, may procure or renew such insurance, and all amounts of money paid therefor by the Authority shall be payable by the Redeveloper to the Authority, with interest thereon at the rate of twelve per centum (12%) per annum from the date the same were paid by the Authority to the date of payment thereof by the Redeveloper. The Authority shall notify the Redeveloper in writing of the date, purposes, and amounts of any such payments made by it.

Section 704: Redeveloper's Obligations with Respect to Restoration and Reconstruction

a. Whenever any improvements, or any part thereof, constructed on the Property shall have been damaged or destroyed prior to the expiration of the term of the Plan, the Redeveloper shall proceed promptly to establish and collect all valid claims which may have arisen against insurers or others based upon any such damage or destruction. All

proceeds of any such claim and any other monies provided for the reconstruction, restoration or repair of any such improvement, shall be deposited in full in a separate account of the Redeveloper or of any mortgagee.

b. The insurance money and any other proceeds so collected shall be used and expended for the purpose of fully repairing or reconstructing the improvements which have been destroyed or damaged to a condition at least comparable to that existing at the time of such damage or destruction to the extent that such insurance money and other proceeds may permit. Any excess proceeds after such repair or reconstruction has been fully completed shall be retained by the Redeveloper, subject to the rights of any mortgagee of record permitted hereunder and the rights of the Authority.

c. The Redeveloper, with the written approval of the Authority and any mortgagee of record permitted hereunder, may determine that all or any part of any such damage to or destruction of such improvements shall not be reconstructed, restored, or repaired, and in such event, the proceeds of any claims against insurers or others arising out of such damage or destruction, to the extent not used for such reconstruction, restoration, or repair shall be retained by the Redeveloper, subject to the rights of such mortgagee and the rights of the Authority.

d. Any reconstruction or repair undertaken pursuant to the provisions of this Section shall in all respects be in accordance with and conform to the provisions of the Plan, the Final Working Drawings and Specifications, and the provisions of this Agreement.

Section 705: Commencement and Completion of Reconstruction

The Redeveloper shall commence to reconstruct or repair any improvements and equipment on the Property, or any portion thereof, which have been destroyed or damaged prior to the expiration of the term of the Plan, within a period not to exceed six (6) months after the insurance or other proceeds

with respect to such destroyed or damaged property have been received by the Redeveloper or any mortgagee (or, if the conditions then prevailing require a longer period, such longer period as the Authority may specify in writing), and shall well and diligently and with dispatch prosecute such reconstruction or repair to completion, such reconstruction or repair in any event to be completed within twenty-four (24) months after the start thereof.

ARTICLE VIII

RIGHTS, REMEDIES AND PROCEDURES IN THE EVENT OF A BREACH BY REDEVELOPER

Section 801: Failure or Refusal by Redeveloper to Purchase Fee Simple Title and Accept Possession

If the Redeveloper shall fail or refuse to submit Working Drawings and Specifications satisfactory to the Authority as provided in Section 302 of this Agreement, or shall fail or refuse to submit evidence satisfactory to the Authority that it has the necessary equity capital and commitments for mortgage financing as provided in Section 208 of this Agreement, or shall fail or refuse to complete the purchase and accept possession of the Property upon proper tender of conveyance by the Authority pursuant to this Agreement, or there is any unauthorized change in the ownership or distribution of the relative partnership interests in the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or degree thereof, the Authority shall have the right to retain the deposit, if any, held by it pursuant to this Agreement as full liquidated damages, but not as a penalty, without any deduction or offset whatever and without further liability to the Authority on the part of the Redeveloper; and the Authority may, upon such failure or refusal, in its sole discretion terminate, by fifteen (15) days prior written notice to the Redeveloper, all of its obligations to the Redeveloper hereunder, in addition to retaining such deposit. In the event there is no such deposit, all the remedies available to the Authority under Section 303 of this Agreement shall apply to defaults under this Section 801.

Section 302: Consequence of Breach by Redeveloper With Respect To
Commencement and Completion of Construction, Failure
to Pay Taxes or Discharge Encumbrances, or Unauthorized
Transfers of Interest

If, prior to completion of the Improvements:

1. The Redeveloper shall fail to perform its obligations under this Agreement with respect to commencement, diligent prosecution, or completion of construction of Improvements;
2. The Redeveloper shall fail to pay any real estate taxes or assessments on the Property, or any amounts due pursuant to Section 8A of Massachusetts General Laws Chapter 121A, or any part thereof when due, or shall place or suffer to be placed thereon any encumbrances or liens other than the mortgage lien(s) authorized by this Agreement; or
3. There is in violation of Sections 401a or 401b of this Agreement a transfer of the Property or any part thereof or a change in the ownership or control of or interests in the Redeveloper;

The Authority shall in writing notify the Redeveloper of such failure or violation. The Redeveloper shall thereupon have ninety (90) days from the receipt by it of such written notice to cure such failure or violation.

- a. If the Redeveloper does not cure such failure or violation within the 90-day period (or within such extended period of time as may be established by the Authority acting solely in its discretion) and if the holders of record of building loan agreements and/or first mortgages in replacement thereof do not exercise their rights to cure such violation or failure (as provided in Section 304 hereof), or if this contract is cancelled, terminated or suspended pursuant to Section 306 hereof, the Redeveloper shall promptly transfer possession of, and reconvey, the Property together with all of the Improvements thereon, to the Authority without cost to the Authority, by Quitclaim Deed, provided that such reconveyance

(1) shall be subject to any building loan agreements, mortgages, regulatory agreements, and other first mortgagee requirements thereon permitted under this Agreement, and (2) shall not include any parcels with respect to which a Certificate of Completion has been issued pursuant to Section 304. If the Redeveloper shall fail so to reconvey, the Authority may institute such actions or proceedings as it may deem advisable as well as proceedings to compel specific performance and the payment of damages, expenses and costs by the Redeveloper.

b. In the event of such failure to cure, the Authority shall also have the right to enforce its rights under the surety bond referred to in Section 208.

c. In the event of a failure to cure under this Section, or if the contract is cancelled, terminated or suspended pursuant to Section 306, the Authority shall also have the right to re-enter and take possession of the Property and to terminate (and revert in the Authority) the estate conveyed by the Deed to the Redeveloper. It being the intent of this, together with other provisions of this Agreement, that the conveyance of the Property to the Redeveloper shall be made upon, and that the Deed shall contain, a condition subsequent to the effect that in the event of such failure to cure, the Authority at its option may declare a termination in favor of the Authority of the title, and of all the rights and interests in the Property and that such title, and all rights and interest of the Redeveloper, and any assigns or successors in interest, in the Property, shall revert to the Authority; provided, that such condition subsequent and any reversion of title as a result thereof in the Authority: (1) shall always be subject to and limited by and shall not defeat, render invalid, or limit in any way the lien of any mortgage authorized by this Agreement, or any rights or interests provided herein for the protection of the holders of such mortgages, and (2) shall not apply to Parcels of the Property with respect to which a Certificate of Completion has been issued pursuant to Section 304.

d. If the Redeveloper or a mortgagee reconveys to the Authority, pursuant to this Section 802 or Section 403, or if the Authority shall re-enter pursuant to this Section 802, the Authority shall undertake with due diligence to resell the Property so reconveyed or which it has so re-entered; and the Improvements thereon, subject to all of the provisions of the Plan; and the proceeds of such resale, together with the net income, if any, derived by the Authority from its operation and management of the Property subsequent to such reconveyance shall be used:

First: to reimburse the Authority for all costs and expenses reasonably and proximately incurred by the Authority, including the salaries of Authority personnel, in connection with the recapture, management and resale of the Property and all administrative and overhead costs in connection therewith;

Next: to reimburse the Authority for expenditures made or obligations incurred with respect to the making or completion of improvements on or for the Property for which it has not otherwise been reimbursed;

Next: to pay all taxes, payments in lieu of taxes, public charges and other sums owing to the City with respect to the Property up to the time of such resale (or in the event the Property is exempt from taxation during the period of ownership thereof by the Authority, an amount equal to such taxes as would have been payable if the Property were not so exempt); and

Finally:

1. In their respective order of priority to pay any and all mortgage indebtedness authorized by this Agreement and to make all and whatever payments may be necessary to

discharge any other encumbrances or liens existing or threatened on the Property, in favor of mechanics, materialmen or subcontractors;

2. To pay or reimburse the Authority for any amounts otherwise owing to the Authority from the Redeveloper;
3. If there is any balance of proceeds remaining, to use the balance of the proceeds to reimburse the Redeveloper for and up to the amount expended by it in the purchase and improvement of the Property less any profit theretofore realized by the Redeveloper from the disposition of any interest in the Property or in any individual part or parcel thereof, and any income realized by the Redeveloper from its use of the Property or such part or parcel, and
4. Any balance remaining shall remain the property of the Authority.

Section 803: Notices of Breaches to Mortgagees

If the Authority gives written notice to the Redeveloper of a default under this Agreement, the Authority shall forthwith furnish a copy of the notice to each of the mortgagees of record of the Property permitted under this Agreement. To facilitate the operation of this Section, the Redeveloper shall at all times keep the Authority provided with an up-to-date list of names and addresses of mortgagees and holders of building loan agreements from whom the Redeveloper has obtained loans as permitted under this Agreement. Any such mortgagee or holder may notify the Authority of its address and request that the provisions of Section 907 as they relate to notices apply to it. The Authority agrees to comply with any such request.

Section 804: Mortgagee May Cure Breach of Redeveloper

If the Redeveloper has received notice from the Authority of a default under this Agreement and such breach is not cured by the Redeveloper before the expiration of the period provided therefor, the holders of record of building loan agreements or mortgages on the Property as permitted under this Agreement may cure any such breach upon giving written notice of their intention to do so to the Authority within ninety (90) days after such holder receives such notice of breach, and shall thereupon proceed with due diligence to cure such breach.

Section 805: Remedies for Other Breaches

It is understood by the parties hereto that in the event any party shall fail to comply with or violate any of the provisions of this Agreement, then the other party hereto may institute such actions and proceedings as may be appropriate, including actions and proceedings to compel specific performance and payment of all damages, expenses, and costs. Neither these remedies nor that class of remedies more particularly described in this Agreement shall be exclusive unless specifically so described, provided, however, that the remedies prescribed in Section 801 for the defaults therein described shall be exclusive.

Section 806: Equal Opportunity Compliance Policy and Breach Thereof

If, at any time prior to the issuance of the final Certificate of Completion pursuant to the terms of Section 304 hereof, the Director shall find that the Redeveloper and/or its General Contractor have failed to comply with the requirements of the Authority's "Equal Opportunity Compliance Policy" and the provisions of Sections 208(e) or 306 hereof, the Director shall issue notice of such finding, setting forth the reasons therefor. Such notice shall be sent registered mail, return receipt requested, to the Redeveloper and its General Contractor.

The Redeveloper and/or its General Contractor shall have the right to appeal such finding to the Boston Redevelopment Authority within thirty (30) days of receipt of the notice thereof. Within thirty (30) days after receipt by the Authority of written notice of the Redeveloper's and/or its General

Contractor's intention to appeal said finding, or at the next regular meeting of the Authority, whichever is later, the Authority shall hear such appeal at a public meeting.

Upon the failure of the Redeveloper and/or its General Contractor to appeal the finding of the Director, or upon a determination by the Authority, subsequent to any appeal, that the Redeveloper and/or its General Contractor have failed to comply with the requirements of the Authority's "Equal Opportunity Compliance Policy" and the provisions of Section 208(e) or 306 of this Agreement, the Authority shall have the right to retain the amount deposited with the Authority, if any, pursuant to this Agreement, and still on deposit with the Authority, as full liquidated damages, but not as penalty, without any deduction or offset whatsoever and without further liability to the Authority on the part of the Redeveloper. In the event there is no such deposit, all the remedies available to the Authority under Section 305 of this Agreement shall apply to the defaults described in this Section 306. Nothing herein shall limit the remedies which may be available to private persons affected by such defaults of the Redeveloper.

Upon the failure of the Redeveloper and/or its General Contractor to appeal the finding of the Director, or upon the determination by the Authority, subsequent to an appeal of the finding, that the Redeveloper and/or its General Contractor have failed to comply with the requirements of the Authority's "Equal Opportunity Compliance Policy" and the terms and provisions of Section 208(e) or 306 of this Agreement, the Director shall send a notice of his finding and any Authority action related thereto to the following:

- a. Secretary, Department of Housing and Urban Development
- b. Regional Administrator, Department of Housing and Urban Development
- c. Commissioner, Federal Housing Administration
- d. Director, Boston Office, Federal Housing Administration
- e. Massachusetts Committee Against Discrimination in Housing
- f. Association of General Contractors
- g. The Building Trades Council

- n. Mayor, City of Boston
- i. Mortgagee, and
- j. Such other interested parties as the Director may deem appropriate.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 901: Obligations and Rights and Remedies Cumulative and Separable

The respective rights and remedies of the Authority, the City of Boston, and the Redeveloper, whether provided by this Agreement, by the Regulatory Agreement and Section 6A Tax Agreement entered into with the City of Boston pursuant to Chapter 121A, or by law, shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise, at the same or different times of any other such rights or remedies.

Section 902: Finality of Approvals

Where, pursuant to this Agreement, any document or proposed action by the Redeveloper is submitted by it to the Authority, and the Redeveloper has been notified in writing by the Authority that the same is approved or is satisfactory, such determination shall be conclusively deemed to be a final determination by the Authority with respect to such particular document or proposed action for which such approval or notice of satisfaction was given.

Where the consent or approval of the Authority is required hereunder, such consent or approval shall not be unreasonably withheld.

Section 903: How Agreement Affected by Provisions Being Held Invalid

If any provisions of this Agreement are held invalid, the remainder of this Agreement shall not be affected thereby, if such remainder would then continue to conform to the requirements of applicable laws, including Chapter 121A and all agreements entered into pursuant thereto, and of the Plan.

Section 904: Covenants to be Enforceable by Authority and United States

The covenants herein contained, which are expressed to be covenants running with the land, shall be stated or incorporated by reference in any

instrument of conveyance or lease relating to the Property or any portion thereof or any interest therein and shall in any event and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, the Authority (and the United States in the case of the covenants provided in Section 301(a) (3) hereof) against the Redeveloper (including its successors and assigns to or of the Property or any part thereof or any interest therein and any party in possession or occupancy of the Property or any part thereof). In amplification, and not in restriction of the provisions hereof, it is intended and agreed that the Authority shall be deemed a beneficiary of the covenant provided in Section 301 (a) (3) hereof, both for and in its own right and also for the purpose of protecting the interests of the community and the other parties, public or private, in whose favor or for whose benefit such covenants have been provided, and such covenants shall be in force and effect, without regard to whether the Authority or the United States has at any time been, remains or is an owner or in possession of any land to, or in favor of, which the covenants relate.

It is the intention of the Authority that the benefit of the covenants running with the land which are contained in any instrument of conveyance relating to the Property shall be enforceable only by the Authority (and the United States in the case of the covenant provided in Section 301 (a) (3) hereof) and those holding title to an interest in the Property and that such covenants shall not be enforceable by transferees of other land owned by the Authority in the area covered by the Plan.

Section 905: Parties Banned From Interest in Project

No member of the Congress of the United States of America shall be admitted to any share or part hereof, or to any benefit to arise therefrom.

Section 906: Authority's Members and Officers Banned From Interest

- a. No member, official or employee of the Authority shall have any personal interest, direct or indirect, in this Agreement or the Redeveloper, nor shall any such member, official or employee participate

in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official or employee of the Authority shall be personally liable to the Redeveloper or any successor in interest in the event of any default or breach by the Authority or for any amount which may become due to the Redeveloper or to its successors or on any obligations under the terms of this Agreement.

b. After the date hereinabove first written, the Redeveloper shall not, without a prior finding by the Authority that such action is consistent with the public interest, employ in connection with its obligations under this Agreement, any person who has participated in the planning or execution of the Plan or related Project and who is named on any list which may be furnished by the Authority to the Redeveloper as having so participated, or permit any such person to directly or indirectly acquire an interest (except an interest based upon the ownership of its capital stock if such stock is publicly held or offered) in the Redeveloper or in the Property prior to the completion of the Improvements thereon in accordance with this Agreement and the Plan.

Section 907: Approvals and Notices

Except as otherwise specifically provided in this Agreement, whenever under this Agreement approvals, authorizations, determinations, satisfactions, or waivers are required or permitted, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing signed by a duly authorized officer of the Authority or

Redeveloper, and shall be deemed given when deposited in the United States mail and sent registered or certified, postage prepaid, to the principal office of the party to whom it is directed, which is as follows:

Redeveloper: TDC III Limited Partnership
c/o TDC III Management, Inc.
663 Massachusetts Avenue
Boston, MA

Authority: City Hall
Boston, Massachusetts 02201

The parties shall promptly notify each other of any change of their respective addresses set forth above.

Notice and other communications to mortgagees and holders of construction loan agreements shall be deemed given when deposited in the United States mail and sent registered or certified, postage prepaid, to the last known address of the party concerned.

Section 908: Matters to be Disregarded

The titles of the several articles and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

Section 909: Obligations to Continue

Except as to obligations to be performed at or prior to the time of closing of the sale and conveyance of fee simple title to and delivery of possession of the Property, the provisions of this Agreement shall survive the time of closing and the sale and conveyance of fee simple title to and the delivery of possession of the Property to the Redeveloper, but shall not survive issuance of the Certificate of Completion by the Authority except to the extent stated herein or in the Deed.

Section 910: Excusable Delays

For the purposes of any of the provisions of this Agreement, neither the Authority nor the Redeveloper, as the case may be, shall be considered in breach of or default in its obligations with respect to the preparation of the Property for redevelopment, or the beginning and completion of construction of the improvements, or progress in respect thereto, in the event of any

avoidable delay in the performance of such obligations due to causes beyond its control and without its fault or negligence, including but not restricted to, acts of God, or of the public enemy, acts of the Government, acts of the other party, fires, floods, or other casualties, epidemics, quarantine restrictions, labor disputes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Authority with respect to the preparation of the Property for redevelopment or of the Redeveloper with respect to construction of the Improvements, as the case may be, shall be extended for the period of the enforced delay. Provided, that the party seeking the benefit of the provisions of this Section shall, within a reasonable period after the beginning of any such enforced delay, have first notified the other party thereof in writing stating the cause or causes thereof and requested an extension for the period of the enforced delay. In calculating the length of the delay, the Authority shall consider not only actual work stoppages but also any consequential delays resulting from such stoppages as well. In no event shall any financing difficulty or inability to secure a building permit be a cause for an extension hereunder. Failure to secure a building permit pursuant to Section 210 hereinabove shall, only with the concurrence of the Authority, be cause for such extension.

Section 911: Advertising

The Redeveloper agrees for itself, its successors, and assigns, that during construction and thereafter the Redeveloper, and its successors and assigns, shall include in all advertising for the sale or rental of the Property a statement to the effect (a) that the Property is open to all persons without discrimination on the basis of race, religion, sex, color or national origin and (b) that there shall be no discrimination in public access and use of the Property to the extent that it is open to the public. Without limiting the foregoing, the Redeveloper shall include in all advertising (including signs) for sale and rental of the whole or any part of the Property the legend "An Open Occupancy Building" in type or lettering of easily legible size and design.

Section 912: Agreement Subject to HUD Concurrence

This Agreement and the terms hereof are subject to HUD approval, and in the event that HUD disapproves of this Agreement in any respect, unless the parties agree to make such changes as HUD may require for its approval, then (1) the deposit, pursuant to this Agreement, if any, together with any interest earned thereon shall be refunded; (2) all other obligations of the parties hereto shall cease; and (3) this Agreement shall be void and without recourse of the parties hereto.

Section 913: Agreement Binding on Successors and Assigns

The respective provisions of this Agreement, in accordance with their terms, shall be binding upon, and shall inure to the benefit of the successors and assigns of the Redeveloper and the public body or bodies succeeding to the interests of the Authority, and to any subsequent grantees of the Property.

Neither the Redeveloper nor any successor in title to the Property shall be liable for any breach hereof accruing after the period during which it was owner of the Property, except, with regard to the parcel(s) conveyed pursuant to Subsection (c) of Section 401 of this Agreement, such liability shall cease only upon issuance of the Certificate of Completion pursuant to Section 304 of this Agreement. No holder of any mortgage on the Property shall be deemed to be the owner thereof until it shall have foreclosed the mortgage thereon or shall have acquired title by deed in lieu of foreclosure.

The Authority agrees to look only to the assets of the Redeveloper and not to the assets of any general or limited partner of the Redeveloper in the event of any breach by the Redeveloper of its obligations hereunder, it being understood that in no event shall the assets of any general or limited partner of the Redeveloper, other than their interest in the Property, be subject to liability for any such breach.

Section 914: Amendment of Plan

No modification or amendment to any provisions of the Plan shall be effective with respect to the Property, unless such modification or amendment

of the Plan has been consented to by the Redeveloper and everyone entitled to be given notice under Section 803 prior to becoming effective with respect to the Redeveloper.

Section 915: Waivers

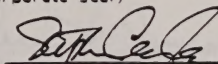
Any right or remedy which the Authority or the Redeveloper may have under this Agreement, or any of its provisions, may be waived in writing by the Authority or the Redeveloper, as the case may be, without execution of a new or supplementary Agreement, but any such waiver shall not affect any other rights not specifically waived, and no waiver by the Redeveloper of a right under Section 801 or 802 shall be effective unless approved in writing by everyone then entitled to be given notice under Section 803.

IN WITNESS WHEREOF, on the 31 day December, of 1985 at Boston, Massachusetts, the parties hereto have caused this Agreement in five counterparts to be signed, sealed and delivered by their duly authorized officers or representatives, respectively.

Signed, sealed and delivered in the presence of:

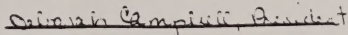
BOSTON REDEVELOPMENT AUTHORITY
(Corporate Seal)

By


Stephen Coyne, Director

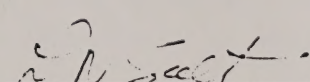
TDC III LIMITED PARTNERSHIP
By: TDC III Management, Inc.
General Partner

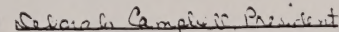
By


Deborah Campbell, President

Approved as to form:

TENANTS' DEVELOPMENT CORPORATION


Assistant General Counsel

By: 
Deborah Campbell, President

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. Boston

December 31, 1985

Then personally appeared before me the above-named Stephen Coyle who executed the foregoing Agreement on behalf of the Boston Redevelopment Authority and acknowledged the same to be the free act and deed of said Authority.

Arak H. Jaizigian
Notary Public
My commission expires: July 23, 1987

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. Boston

December 31, 1985

Then personally appeared before me the above-named Deborah Campbell, Pres. of Tenants' Development Corporation and Pres. of TDC III Management Inc., General Partner of TDC III Limited Partnership who executed the foregoing Agreement on behalf of such entities and acknowledged the same to be the free act and deed of said entities.

Arak H. Jaizigian
Notary Public
My commission expires: July 23, 1987

EXHIBIT A

BOSTON REDEVELOPMENT AUTHORITY

SOUTH END URBAN RENEWAL AREA

PARCEL SE-22

The land and building thereon at 397 Massachusetts Avenue, Boston, Suffolk County, Massachusetts, being Lot 4 on a plan by T. William Harris, C.E., dated October 2, 1884, recorded with Suffolk Deeds, Book 1680, page 451, bounded and described as follows:

NORTHEASTERLY	by Massachusetts Avenue (formerly Westchester Park) nineteen (19) feet;
SOUTHEASTERLY	by Lot 3 on said plan, ninety-five (95) feet;
SOUTHWESTERLY	by a passageway, now Public Alley No. 815, nineteen (19) feet;
NORTHWESTERLY	by Lot 5 on said plan, ninety-five (95) feet.

Containing one thousand eighty hundred and five (1,805) square feet of land according to said plan.

PARCEL SE-23

The land in said Boston, with the buildings thereon, numbered 395 Massachusetts Avenue and being shown as Lot 5 on a plan of lots West Chester Park, made by T. William Harris, dated October 2, 1884, and recorded with Suffolk Deeds, Book 1680, page 450, being bounded and described as follows:

NORTHWESTERLY	by Massachusetts Avenue (formerly West Chester Park) nineteen and 40/100 (19.40) feet;
SOUTHEASTERLY	by Lot 4 on said plan, ninety-five (95) feet;
SOUTHWESTERLY	by a passageway ten feet wide extended to Columbus Avenue, eighteen and 52/100 (18.52) feet; and
NORTHWESTERLY	by land now or formerly of Stever, ninety-five (95) feet.

Containing, according to said plan, 1,802.62 square feet of land.

PARCELS SE-20, SE-43 and SE-44 (390-408 Massachusetts Avenue)

Boston Redevelopment Authority Disposition Parcels SE-20, SE-43, SE-44, containing approximately 13,038 square feet of land, as shown on a

Plan entitled, "Boston Redevelopment Authority, South End Urban Renewal Area, Project Mass. R-56, Boston, Suffolk County, Massachusetts, Delivery Parcel Plan, Parcels SE-20, SE-43 and SE-44," dated December, 1985, and prepared by C. E. Maguire, Inc., Waltham, Mass., which Plan is recorded herewith.

DEED

Whereas, the Boston Redevelopment Authority at a December 19, 1985 meeting of its Board of Directors has granted final designation status to Tenants' Development Corporation for the purpose of redeveloping certain land in the South End urban renewal area, and

Whereas, Tenants' Development Corporation has formed for the purpose of carrying out these approved redevelopment activities TDC III Limited Partnership, whose General Partner is TDC III Management, Inc., a wholly owned subsidiary of Tenants' Development Corporation,

Now, Therefore,

BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate, organized and existing pursuant to Massachusetts General Laws Chapter 121B, (the "Grantor"), in consideration of two hundred seventeen thousand Dollars (\$ 217,000) paid and in consideration of the covenants contained herein, and further contained in the Land Disposition Agreement recorded herewith (the "Agreement"), grants to TDC III Limited Partnership of 663 Massachusetts Ave., Boston, Suffolk County, Massachusetts, (the "Grantee"), with Quitclaim Covenants, that certain parcel of land with buildings thereon, in the South End urban renewal area, known as Parcels SE-20, SE-22, SE-33, SE-43 and SE-44 and bounded and described as set forth in EXHIBIT A attached hereto and made a part hereof (the "Property"), and being the same premises acquired by the Grantor by Order of Taking dated December 19, 1985, and recorded at Suffolk County Registry of Deeds

The Grantee covenants for the Grantee, its successors and assigns, and every successor in interest to the Property, or any part thereof, as follows:

(1) The Grantee shall use the Property in conformity with the land use provisions, planning objectives, and other requirements for the Property contained in the South End Urban Renewal Plan, as the same may be from time to time amended, until the termination of said Plan (the "Plan"), and until such termination the Grantee shall not construct any building or structure on the Property, other than the improvements (the term "Improvements" shall be as defined in the Agreement), and shall not reconstruct, demolish, subtract therefrom, make any additions thereto or extensions thereof, or change the materials, design, dimensions or color thereof, if such reconstruction, demolition, subtraction, addition, extension or change will affect in any way the external appearance of public lobbies, arcades, open spaces or landscaping, or the external appearance of any building (including roof and penthouse), unless and until (a) the proposed plans for such building or structure or other such work have been submitted to the Grantor, or its

successors in interest, for review, and (b) the Grantor or its successors in interest, as the case may be, shall have in writing approved said proposed plans and authorized the said construction or other said work on the property.

(2) The Grantee shall give preference in the selection of tenants for dwelling units built on the property; first, to families displaced from the property because of clearance and redevelopment activity, and second, to other families displaced from the area covered by the plan by clearance and redevelopment activity or by other governmental activities, who desire to occupy such dwelling units and will be able to pay rents or prices equal to rents or prices charged other families for similar or comparable units built as part of the improvements on the property to the extent required by Section 301 (a) of the Agreement and meet all other applicable standards as described in Section 308 of the Agreement.

(3) Without limitation as to time, the Grantee shall not discriminate upon the basis or race, color, sex, religion or national origin in the sale, lease or rental or in the use or occupancy of the property or any improvements erected or to be erected thereon, or any part thereof, or in connection with the employment or application for employment of persons for the construction of any such improvements.

(4) Construction of the Improvements on the property in compliance with all of the terms and conditions of the Agreement recorded herewith, shall be commenced within ninety(90) days after delivery of this Deed to and possession of the property to the Grantee, and shall be diligently prosecuted to completion not later than twenty-four (24) months after the commencement thereof, subject to extensions in accordance with the Agreement.

(5) Until the expiration of the term of the Plan or said Certificate or partial Certificates of Completion, the Grantee shall, from time to time, at all reasonable hours, give to the duly authorized representatives of the United States of America, the Grantor, and the City of Boston, free and unobstructed access for inspection purposes to any and all improvements constructed on the property and to all open areas surrounding the same.

(6) The Grantee shall, at all times until the expiration of the term of the Plan, keep the improvements constructed on the property in good and safe condition and repair unless such improvements shall have become uninsurable, and in the occupancy, maintenance and operation of such improvements, the property shall comply with the terms and conditions of the Plan and all

Laws, ordinances, codes and regulations applicable thereto.

(7) Whenever any of the Improvements, or any part thereof, constructed on the Property have been damaged or destroyed prior to the expiration of the term of the Plan, the Grantee shall collect and apply the proceeds from any claims against insurers or others for the purpose of fully repairing or reconstructing such Improvements, as provided in Sections 704 and 705 of the Agreement.

(8) Until the expiration of the term of the Plan, the Grantee shall keep all of the insurable property and equipment in respect of the Property insured by fire and extended insurance and additional risk insurance to the same extent and amount which is normally required by institutional mortgagees in the use of similar property and equipment in the City of Boston. Such insurance shall be in the amount sufficient to comply with the co-insurance clause applicable to the location and character of the property or equipment, and, in any event, in amounts not less than eighty per centum (or eighty per centum in the case of extended coverage insurance) of the current cash value of such property or equipment. All such insurance shall be by standard policies, obtained from financially sound and responsible insurance companies authorized to do business in Massachusetts, and shall have attached thereto a clause making the loss payable to the Grantee, any mortgagee, and, subject to the rights of such mortgagee, the Grantor, as their respective interests may appear. Each insurance policy shall be written to become effective at the time the Grantee becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Grantee is subject to such risk or hazard. Certificates of such policies and renewals shall be filed with the Grantor.

All insurance policies shall provide that any cancellation, change or termination thereof shall not be effective with respect to the Grantor until after at least ten (10) days prior notice has been given to the Grantor to the effect that such insurance policies are to be cancelled, changed, or terminated at a particular time.

If the Grantee at any time refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Deed, the Grantor at its option, may procure or renew such insurance, and all amounts of money paid therefor by the Grantor shall be payable by the Grantee to the Grantor, with interest thereon at the rate currently earned upon ninety (90) day United States Treasury Bills from the date the same were paid by the Grantor to the date of payment thereof by the Grantee. The Grantor shall notify the Grantee in writing of the date, purposes, and amounts of any such payments made by it.

(9) Real estate taxes, payments in lieu of taxes, and other public assessments and charges shall be paid by the Grantee when due, and no encumbrance or lien not authorized by the terms of this Deed or of the Agreement shall be permitted to exist.

(10) The Grantee agrees to comply with all applicable rules and orders issued by the United States Department of Housing and Urban Development which prohibit the use of lead-based paint in residential structures undergoing Federally assisted construction or rehabilitation and requiring the elimination of lead-based paint hazards.

(11) The covenants provided in this Deed shall be covenants running with the land, binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, the Grantor, its successors and assigns, the City of Boston, and in the case of the covenant provided in paragraph (3) above, the United States, both for and in its or their own right and also to protect the interest of the community and other parties, public and private, in whose favor or for whose benefit the covenants have been provided, against the Grantee, its successors and assigns, and every successor in interest to the Property or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof. It is further intended and agreed that the covenants provided in this Deed shall remain in effect for the term of the Plan, or until such date thereafter to which such term may be extended by proper amendment of the Plan. The covenant provided in paragraph (3) shall remain in effect without limitation as to time.

(12) The Grantee, for itself and its successors and assigns, hereby waives all claim and right to damages, payment, or compensation, and agrees

with the Grantor and its successors and assigns, to make no claim for damages by reason of the laying out of, discontinuance, change in grade, or taking by the City of Boston for streets abutting the Property, insofar as said actions are for purposes of carrying out said Urban Renewal Plan as it presently exists.

(13) This Deed is subject to a condition subsequent that in the event of a violation and a failure to cure the same by the Grantee of any provision of, or recited in, Section 802 of the Agreement, but subject to the provisions of Sections 803 and 804 thereof, the Grantor may at its option declare a termination in favor of the Grantor of the Grantee's title, and of all the Grantee's rights and interests in the property, and such title and all rights and interest of the Grantee, and any assigns or successors in interest, in the property, shall revert to the Grantor; provided, that such condition subsequent and any reversion of title as a result thereof in the Grantor: (1) shall always be subject to and limited by and shall not defeat, render invalid, or limit in any way the lien of any mortgage authorized by the Agreement, or any rights or interests provided therein for the protection of the holders of such mortgages, and (2) shall not apply to Parcels of the property with respect to which a Certificate of Completion or partial Certificates of Completion have been issued pursuant to Section 304 of the Agreement and/or this Deed.

(14) The Certificate of Completion to be issued by the Grantor to the Grantee pursuant to Section 304 of the Agreement shall be a conclusive determination of satisfaction and termination of the agreements and covenants contained in the Agreement and in this Deed with respect to the obligations of the Grantee and its successors and assigns to construct the improvements on the Property.

IN WITNESS WHEREOF, the parties have caused their signatures
and seals to be placed on this instrument in three (3) counterparts by their
duly authorized officers, respectively on this 31 day of December 1985

Signed, sealed and delivered
in the presence of:

BOSTON REDEVELOPMENT AUTHORITY

By

Stephen Coyle
Stephen Coyle, Director

TDC III Limited Partnership

By: TDC III Management, Inc.

By

William Campbell, President

Approved as to form:

Ralph F. Cahill
Ralph F. Cahill, Assistant General Counsel

BOSTON REDEVELOPMENT AUTHORITY
SOUTH END URBAN RENEWAL AREA

PARCEL SE-22

The land and building thereon at 397 Massachusetts Avenue, Boston, Suffolk County, Massachusetts, being Lot 4 on a plan by T. William Harris, C.E., dated October 2, 1884, recorded with Suffolk Deeds, Book 1680, page 451, bounded and described as follows:

NORTHEASTERLY	by Massachusetts Avenue (formerly Westchester Park) nineteen (19) feet;
SOUTHEASTERLY	by Lot 3 on said plan, ninety-five (95) feet;
SOUTHWESTERLY	by a passageway, now Public Alley No. 315, nineteen (19) feet;
NORTHWESTERLY	by Lot 5 on said plan, ninety-five (95) feet.

Containing one thousand eighty hundred and five (1,805) square feet of land according to said plan.

PARCEL SE-23

The land in said Boston, with the buildings thereon, numbered 395 Massachusetts Avenue and being shown as Lot 5 on a plan of lots West Chester Park, made by T. William Harris, dated October 2, 1884, and recorded with Suffolk Deeds, Book 1680, page 450, being bounded and described as follows:

NORTHWESTERLY	by Massachusetts Avenue (formerly West Chester Park) nineteen and 40/100 (19.40) feet;
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Containing, according to said plan, 1,802.62 square feet of land.

PARCELS SE-20, SE-43 and SE-44 (390-408 Massachusetts Avenue)

Boston Redevelopment Authority Disposition Parcels SE-20, SE-43, SE-44, containing approximately 13,038 square feet of land, as shown on a

Plan entitled, "Boston Redevelopment Authority, South End Urban Renewal Area, Project Mass. R-56, Boston, Suffolk County, Massachusetts, Delivery Parcel Plan, Parcels SE-20, SE-43 and SE-44," dated December, 1985, and prepared by C. E. Maguire, Inc., Waltham, Mass., which Plan is recorded herewith.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO. 80901-----
MICHAEL DiCAPRIO, et al.,

Plaintiffs,

v.

RICHARD J. DENNIS, as he is a
member of The Board of Appeal
of The City of Boston, et al.,Defendants.

STIPULATION OF DISMISSAL

JUL 1 1986

CLERK OF COURT

It is hereby stipulated by and between counsel for the parties that the above-entitled action is hereby dismissed with prejudice and without costs to all parties, and with all rights of appeal waived.

MICHAEL DiCAPRIO, SANDY
HOLTZMAN, FRANK JORDAN, HELEN
JORDAN, ELSEBETH KNOTT, GEORGE
KOUGEAS, and PETER MacFARLANE

By their attorney,

Jonathan D. Canter 3/31/86
Jonathan D. Canter

One Boston Place
Suite 1215
Boston, Massachusetts 02108
(617) 723-8882

RICHARD J. DENNIS, JAMES
FARMER, PAUL PARKS, CHIA-MING
SZE, ALFRED GROSS (Members of
the Zoning Board of Appeal),
and WILLIAM SOMMERS (Building
Commissioner),

By their attorney,

Mary Ellen Nolan
Mary Ellen Nolan

Law Department
Room 615, City Hall
Boston, Massachusetts
(617) 725-4046

TENANT DEVELOPMENT CORPORATION,

By its attorneys,

CSAPLAR & BOK

John F. Bok
John F. Bok
Mark S. Swartz

One Winthrop Square
Boston, Massachusetts 02110
(617) 357-4400

JUDGMENT ENTERED ON DA 86
il 2. 1986 as amended
PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 1.1
AND NOTICE SENT TO PARTIES PURSUANT TO MASS. R. CIV. P. 1.1

AGREEMENT

This Agreement, entered into as of March (31), 1986 (this "Agreement") by and between Tenants' Development Corporation (TDC), a Massachusetts not-for-profit corporation, and Michael DiCaprio, Sandy Holtzman, Frank Jordan, Helen Jordan, Peter MacFarlane, Elsbeth Knott and George Kougeas, Jr. (the Plaintiffs).

W I T N E S S E T H:

WHEREAS, TDC seeks to construct a multi-unit apartment building to house persons of low, moderate and market income at 400 Massachusetts Avenue, Ward 9, Boston, MA (the "Building" or the "Site"); and

WHEREAS, the Plaintiffs each own property near or abutting said Site, and have objected to certain design and structural components of TDC's proposed construction; and

WHEREAS, TDC requires certain variances from the provisions of the Boston Zoning Code with respect to floor area ratio, set-back and parking requirements in order to build the Building; and

WHEREAS, the Plaintiffs challenged the decision of the Zoning Board of Appeals allowing such variances by filing a lawsuit in the Suffolk Superior Court entitled DiCaprio et al. v. Dennis, et al. (C.A. No. 80901) seeking to have the variances annulled and other relief; and

WHEREAS, TDC and the Plaintiffs with the assistance of the Boston Redevelopment Authority have sought to resolve their

disputes so that the Building accomplishes TDC's purpose of providing affordable housing to families in the South End while at the same time accommodating to the extent possible the reasonable wishes of the Plaintiffs concerning building design and structure, etc.; and

WHEREAS, the parties have now agreed to resolve their disputes as set forth below:

NOW, THEREFORE, it is hereby stipulated and agreed by and between the undersigned that:

1. The parties agree that the height of the Building shall be no more than 6 1/2 stories at the Massachusetts Avenue side (running from 57 feet of height to no more than 60 feet of height), and no more than 8 stories (73 feet) in height on the rear alley side, all as more fully described on Stull and Lee drawing of March 7, 1986, which is appended hereto and incorporated by reference herein as Exhibit A.

2. The parties agree that the floor area ratio of the Building shall be no more than 4.0; the set-back shall be between 14 and 16 feet from the property line; and the on-site parking shall be for 6 vehicles (residential tenants only) and 2 loading zones, all as more fully described on Stull and Lee drawing of March 4, 1986 which is appended hereto and incorporated by reference herein as Exhibit B.

3. The parties agree that the design and construction of the Building shall otherwise conform to: A) The Stull and Lee drawings appended hereto and incorporated by reference herein as Exhibit A--Stull and Lee 400 Massachusetts Avenue

Elevations showing front, rear, side and end of Building as of March 7, 1986; Exhibit B--Stull and Lee 6-Car Parking Option of March 4, 1986 showing 6 parking spaces, 2 loading zones and 5 back yards; Exhibit C--Stull and Lee drawing of March 6, 1986 of black metal fence railing to be used at front-stoop level, at front top-story set-back, at rear top-story set-back and at rear second-story balconies; Exhibit D--Stull and Lee drawing of March 6, 1986 showing a front stoop with black metal railing for use at the 6 private entrances on Massachusetts Avenue; Exhibit E--Stull and Lee perspective drawing of March 4, 1986 showing the Building looking north on Massachusetts Avenue; Exhibit F--Stull and Lee perspective drawing of March 4, 1986 showing the rear of the building looking west from the Southwest Corridor garden; and B) Agreed-upon design notes to said Exhibits as appended hereto and incorporated by reference herein as Attachment One.

4. The parties agree to the use of bell and caisson footings for the foundation of the Building instead of pile-driven footings.

5. For the purpose of carrying forward this Agreement and enforcing it, there shall henceforth be a committee consisting of the plaintiffs to the lawsuit to be known as the "abutters committee." All notices by and between TDC and the plaintiffs herein arising under this agreement shall hereafter be given to or by the chairperson of said abutters committee, and further, said chairperson shall be deemed to have authority to act on behalf of the abutters committee. The plaintiffs

hereby appoint Frank Jordan as the first chairperson of said abutters committee. TDC may rely upon this designation of Mr. Jordan as chairperson until duly notified by said abutters' committee in writing by certified mail, return receipt requested, that the designation has changed.

6. The parties agree that the types of commercial use and occupancy of the Building shall be subject to the abutters' committee review and comment, except the following types of commercial use shall not be used without prior approval by the abutters' committee: bar and/or restaurant; liquor store; amusement arcade; adult bookstore; automotive or related services; or a business which intends to operate on a regular basis between midnight and 5:00 A.M. The abutters committee agrees to not unreasonably withhold approval if the tenant is a convenience store or drug store which intends to operate between the hours of midnight and 5:00 A.M. Consistent with the above, in determining who the commercial tenant or tenants shall be, TDC shall attempt to achieve the following objectives: a needed neighborhood service, local ownership, hours that are not disruptive of the neighborhood, and operation that does not promote loitering, littering or other disruptions to the neighborhood. If the tenant is a convenience store or a drug store, TDC shall attempt to achieve the following additional objectives: a delivery schedule that minimizes disruption, timely trash removal, and a secure trash area. TDC agrees to notify the abutters' committee of the identity of the owner of the tenant, including an emergency

telephone number. Subject to the zoning code and the provisions hereof, final leasing shall be determined by TDC.

7. The parties agree to the expeditious formation of a construction management committee composed of the chairperson of the abutters' committee and at least two members of the Claremont Neighborhood Association Design Review Committee to be selected by that committee. Other members of the construction management committee should include representatives of TDC; their architect, Stull and Lee; the TDC consultant, Greater Boston Community Development, Inc.; the TDC general contractor and appropriate subcontractors and other interested parties, when required. The construction management committee shall function to insure the proper planning and execution of all phases of construction as to hours of operation, traffic in and out of the neighborhood, protection of abutting private property and construction-personnel parking. The objective of the construction management committee is to prevent community-contractor conflicts by prior planning and communication, as well as to keep the abutters' committee fully advised of developments at the Site.

8. TDC agrees to the mutual execution with appropriate abutters of a master towing agreement to authorize 24 hour towing of illegally parked vehicles, including vehicles which are illegally parked on the Wellington Street alley which is private property.

9. Insofar as the parties have not reached final agreement on the issues pertaining to the ornamental masonry

material, locations and installation schedule for safety lighting, selection of additional parking spaces, off-site at the Greenhouse Garage or at a reasonable alternative, the type of enclosures to be used for the backyards, abutter parking interface, review of signage, window trim color, details of cornice and gravel stops, more details on fence design (Exhibit C hereto) and stoop details (Exhibit D hereto), and other building materials, TDC agrees to review and discuss in good faith such issues with the abutters committee as in a manner similar to the discussions and review sessions conducted during the past month. Final resolution of many of these issues will be subject to approval of other agencies including BRA, South End Landmarks Commission, MHFA and Massachusetts Historic Commission.

10. In consideration of the promises and agreements herein, the parties shall execute a Stipulation of Dismissal with Prejudice as to said C.A. No. 80901 in the form annexed hereto as Exhibit G that may immediately be filed with the Office of the Clerk of the Superior Court for Suffolk County.

11. The abutters committee agrees to consult with the Claremont Neighborhood Association Design Review Committee with respect to all issues arising under this agreement and the enforcement thereof.

12. The parties agree that this agreement shall be a binding and enforceable agreement such that in the event that TDC, its successors or assigns, shall fail to abide by the terms and agreements contained herein, the abutters committee

by majority action and after consultation with the Claremont Neighborhood Association Design Review Committee may seek to enforce said terms and agreements in a court of competent jurisdiction, and in the event that said abutters committee obtains affirmative relief, it shall be paid by TDC such reasonable attorneys' fees and costs as were incurred by it relative to obtaining such affirmative relief. The maximum amount of attorneys' fees receivable under this provision shall be \$4,000.00, regardless of the number of such suits which may be brought.

13. Following issuance of the Final Certificate of Occupancy for the building, TDC shall give notice of such issuance to the chairperson of the abutters committee by certified mail, return receipt requested, such notice to include a copy of said Certificate of Occupancy. Except for any rights or obligations arising under paragraphs 6 and 8 of this Agreement and Note 17 of Attachment One hereto, no claims, actions or lawsuits may be ^{commenced} ~~brought~~ arising from any rights or obligations under this Agreement after one year following receipt of said notice.

14. The rights under this agreement are not assignable by plaintiffs and each plaintiff's rights under this

agreement shall terminate no later than the date on which he or she sells the property at which he or she presently resides.

TENANTS' DEVELOPMENT CORPORATION

By: Deborah Campbell
Its President

Michael DiCaprio
Michael DiCaprio

Sandy Holtzman
Sandy Holtzman

Frank Jordan
Frank Jordan

Helen Jordan
Helen Jordan

Peter MacFarlane
Peter MacFarlane

Elsbeth Knott
Elsbeth Knott

George Kougeas, Jr.
George Kougeas, Jr.

ATTACHMENT ONE

Note:

1. The parties agree that the height of the Building shall be no more than 6 1/2 stories at the Massachusetts Avenue side (running from 57 feet of height to no more than 60 feet of height), and no more than 8 stories (73 feet) in height on the rear alley side, all as more fully described in Stull and Lee drawing of March 7, 1986, which is appended hereto and incorporated by reference herein as Exhibit A.

2. The introduction of an 18 inch set-back on the top floor of both the front and rear facades to create the illusion of a mansard roof on the front and back of the Building. This set-back is to be covered with frost proof matter gray tile (See Exhibit A).

3. The elimination of the three-level roof design to create a mansard illusion. (See Exhibit A).

4. The massive, horizontal feeling of the Building has been turned into a lighter, vertical feeling Building by extending the bays to the cornice line and extending the bay face facade to the roof line. A further Victorian feeling has been introduced by stepping the corners of the bay face extensions, and covering the extensions with ornamental masonry material. (See Exhibit A).

5. The top floor end walls have been angled to give the illusion of a mansard roof design. (See Exhibit A).

6. The use of ornamental masonry material (the exact type to be determined) at the bay cornice line at tops of bay

extensions on both front and rear facades, covering the Massachusetts Avenue grade story (third story) on the front facade, covering the ground floor facade at the rear of the Building, covering the grade level of the parkland (side) facade (second story) and projecting up the center of the parkland facade to the bottom of the parkland oriel (four-and-one half-story). (See Exhibit A).

7. The restoration of two bays on the rear, one at either end of the facade, with extensions that are stepped and extend to the roof line (See Exhibit A).

8. The introduction of two oriels on the rear facade extending from stories four through six. They are to be covered in metal whose color closely approximates that of weathered copper. (See Exhibit A).

9. The use of black iron or other metal railings of the design shown in Exhibit C at the top floor on both the front and rear facades, at the Massachusetts Avenue grade level where it will be stepped down the grade toward Columbus Avenue and on the top of the ground-floor projection on the rear of the building. (See Exhibits A and C).

10. The use of recessive colors on facades reduces the dominance of the design. The brick to be used in the building will be Philadelphia pressed brick, Belden 503-505, standard colony red-range, or equivalent, subject to on-site review of the sample panel. (See Exhibit A).

11. Extensive use of window detail breaks up the massiveness of the Building. The window and door lintels will

be made of ornamental masonry material. Only examples are noted on the exhibit. (See Exhibit A).

12. The introduction of an oriel on the parkland facade at stories five and six. It is to be covered in metal whose color closely approximates that of weathered copper.

13. The extension of the ground floor footprint by six feet at the rear of the Building to provide more living space in ground-floor units as well as provide a visual base for the base of the building and reduce the apparent height of the rear facade. (See Exhibit A).

14. The maintenance of six private entrances on the Massachusetts Avenue grade, with railing-topped stoops for all, as shown in Exhibit D in detail, and located as noted on Exhibit D in detail, and located as noted on Exhibit A.

15. The continued use of front yards/planting beds on the Building as noted. (See Exhibit A).

16. The use of metal window boxes on the bays of the same color as the oriels or darker is maintained. These window boxes shall be of hot-dipped galvanized metal with fiberglass liners to prevent rusting. The TDC maintenance staff will be required to service them regularly and keep them planted as appropriate. (See example on Exhibit A).

17. The installation of six on-site parking spaces in the rear of the Building for the exclusive use of residents represents an improvement in the parking situation. TDC promises that it will use best efforts to reserve at least 14 to 20 more spaces at the Greenhouse or other nearby off-site location.

18. The continued inclusion of private rear yards.
(See Exhibit B).

19. The introduction of a six-foot deep, covered with a metal the color of roof-weathered copper, shallow gabled entrance canopy in front of the main entrance to the Building on Massachusetts Avenue. (See Exhibit A).

20. The designation of two no-parking zones at the rear of the Building. (See Exhibit B).

21. The selection of signage locations: Main Building identification will be on or under the canopy of the main entrance, and commercial identification will be either on the ornamental masonry band on the parkland side, or on the glass windows below it or in another location to be determined which the community shall have a chance to review. (See Exhibit A).

22. Exterior lighting will be provided above all Massachusetts Avenue stoop entries, main Massachusetts Avenue entry, rear entry, front side and rear pedestrian and parking areas and at other locations to be determined.

23. Fourth-floor stair window on parkland side has been divided into two narrow rectangular windows. (See Exhibit A).

24. Two perspective drawings are attached providing views of the Building from Massachusetts Avenue looking toward the Southwest Corridor and from the Southwest Corridor garden looking toward Massachusetts Avenue. (See Exhibits E and F).



EXHIBIT A

317186

! various part

10-1 10-2 10-3 10-4 10-5 10-6 10-7 10-8 10-9 10-10 10-11 10-12 10-13 10-14 10-15 10-16 10-17 10-18 10-19 10-20 10-21 10-22 10-23 10-24 10-25 10-26 10-27 10-28 10-29 10-30 10-31 10-32 10-33 10-34 10-35 10-36 10-37 10-38 10-39 10-40 10-41 10-42 10-43 10-44 10-45 10-46 10-47 10-48 10-49 10-50 10-51 10-52 10-53 10-54 10-55 10-56 10-57 10-58 10-59 10-60 10-61 10-62 10-63 10-64 10-65 10-66 10-67 10-68 10-69 10-70 10-71 10-72 10-73 10-74 10-75 10-76 10-77 10-78 10-79 10-80 10-81 10-82 10-83 10-84 10-85 10-86 10-87 10-88 10-89 10-90 10-91 10-92 10-93 10-94 10-95 10-96 10-97 10-98 10-99 10-100 10-101 10-102 10-103 10-104 10-105 10-106 10-107 10-108 10-109 10-110 10-111 10-112 10-113 10-114 10-115 10-116 10-117 10-118 10-119 10-120 10-121 10-122 10-123 10-124 10-125 10-126 10-127 10-128 10-129 10-130 10-131 10-132 10-133 10-134 10-135 10-136 10-137 10-138 10-139 10-140 10-141 10-142 10-143 10-144 10-145 10-146 10-147 10-148 10-149 10-150 10-151 10-152 10-153 10-154 10-155 10-156 10-157 10-158 10-159 10-160 10-161 10-162 10-163 10-164 10-165 10-166 10-167 10-168 10-169 10-170 10-171 10-172 10-173 10-174 10-175 10-176 10-177 10-178 10-179 10-180 10-181 10-182 10-183 10-184 10-185 10-186 10-187 10-188 10-189 10-190 10-191 10-192 10-193 10-194 10-195 10-196 10-197 10-198 10-199 10-200 10-201 10-202 10-203 10-204 10-205 10-206 10-207 10-208 10-209 10-210 10-211 10-212 10-213 10-214 10-215 10-216 10-217 10-218 10-219 10-220 10-221 10-222 10-223 10-224 10-225 10-226 10-227 10-228 10-229 10-230 10-231 10-232 10-233 10-234 10-235 10-236 10-237 10-238 10-239 10-240 10-241 10-242 10-243 10-244 10-245 10-246 10-247 10-248 10-249 10-250 10-251 10-252 10-253 10-254 10-255 10-256 10-257 10-258 10-259 10-260 10-261 10-262 10-263 10-264 10-265 10-266 10-267 10-268 10-269 10-270 10-271 10-272 10-273 10-274 10-275 10-276 10-277 10-278 10-279 10-280 10-281 10-282 10-283 10-284 10-285 10-286 10-287 10-288 10-289 10-290 10-291 10-292 10-293 10-294 10-295 10-296 10-297 10-298 10-299 10-300 10-301 10-302 10-303 10-304 10-305 10-306 10-307 10-308 10-309 10-310 10-311 10-312 10-313 10-314 10-315 10-316 10-317 10-318 10-319 10-320 10-321 10-322 10-323 10-324 10-325 10-326 10-327 10-328 10-329 10-330 10-331 10-332 10-333 10-334 10-335 10-336 10-337 10-338 10-339 10-340 10-341 10-342 10-343 10-344 10-345 10-346 10-347 10-348 10-349 10-350 10-351 10-352 10-353 10-354 10-355 10-356 10-357 10-358 10-359 10-360 10-361 10-362 10-363 10-364 10-365 10-366 10-367 10-368 10-369 10-370 10-371 10-372 10-373 10-374 10-375 10-376 10-377 10-378 10-379 10-380 10-381	
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OFFICE

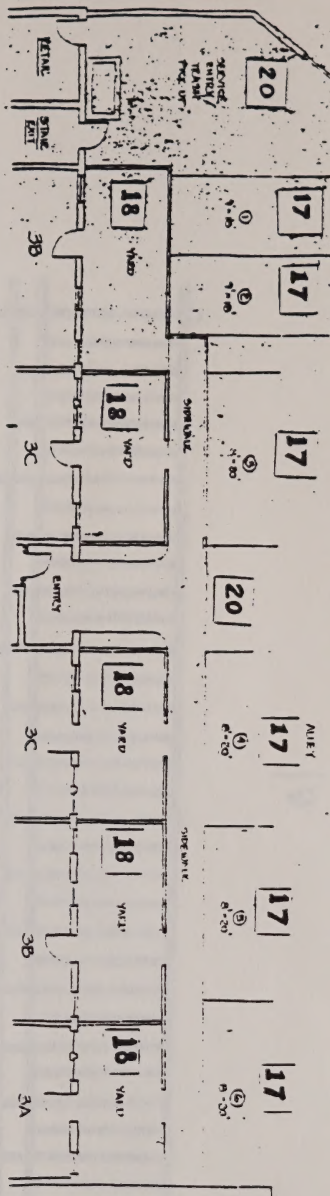
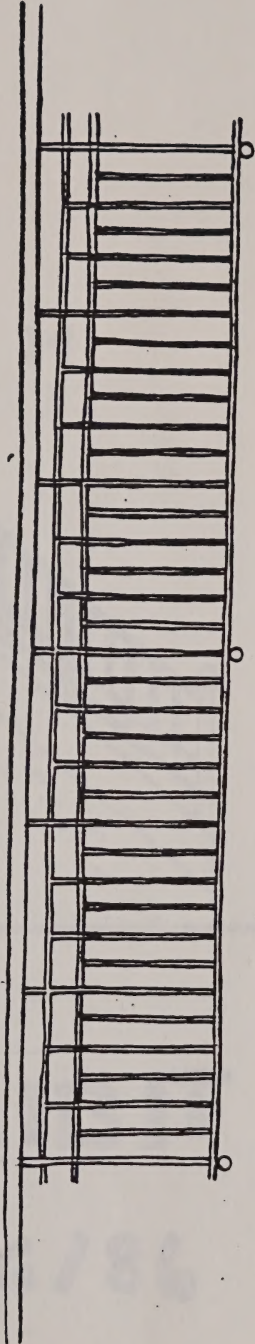


EXHIBIT B

6-CN- PARKING OPTION (3/4/96)
 1/2-1/2-0-0
 Note: This Option is FRAGILE
 ONLY if Airtight is Accessible
 by Airflow at Both Ends.

00L
 1-5



3/6/86

EXHIBIT C

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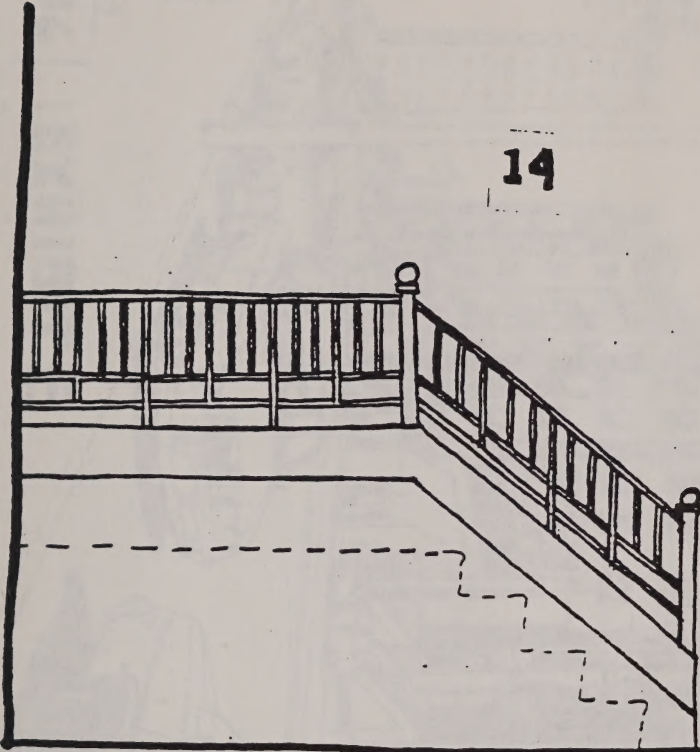


EXHIBIT D

3/6/86

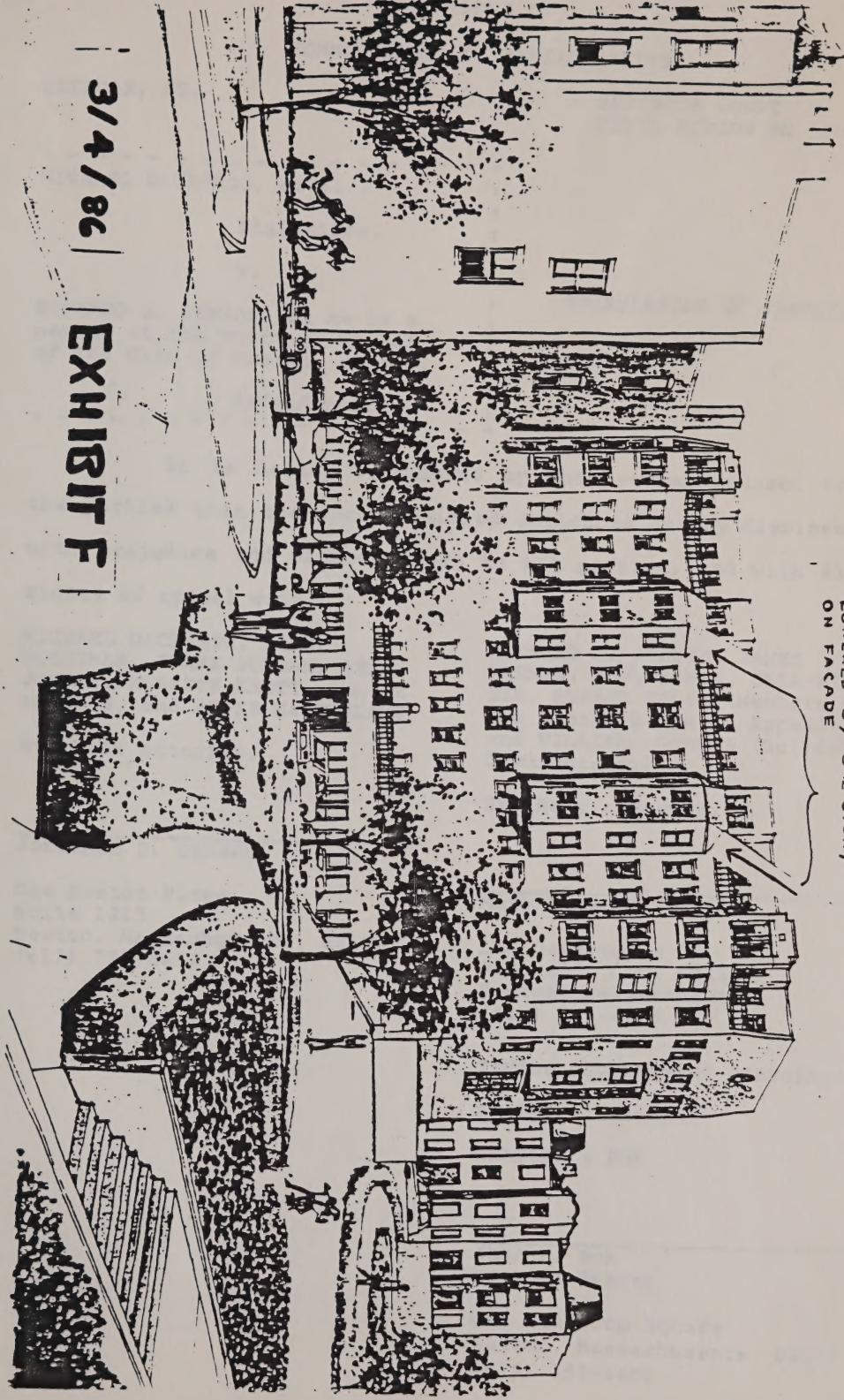
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3/4/86

EXHIBIT E



LOWERED BY ONE STORY
ON FACADE



3/4/86 EXHIBIT F

502

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO. 80901-----
MICHAEL DiCAPRIO, et al., :

Plaintiffs, :

v. :

RICHARD J. DENNIS, as he is a
member of The Board of Appeal
of The City of Boston, et al., :Defendants. :

STIPULATION OF DISMISSAL

It is hereby stipulated by and between counsel for the parties that the above-entitled action is hereby dismissed with prejudice and without costs to all parties, and with all rights of appeal waived.

MICHAEL DiCAPRIO, SANDY
HOLTZMAN, FRANK JORDAN, HELEN
JORDAN, ELSBETH KNOTT, GEORGE
KOUGEAS, and PETER MacPARLANE

By their attorney,

Jonathan D. Canter

One Boston Place
Suite 1215
Boston, Massachusetts 02108
(617) 723-8882

RICHARD J. DENNIS, JAMES
FARMER, PAUL PARKS, CHIA-MING
SZE, ALFRED GROSS (Members of
the Zoning Board of Appeal),
and WILLIAM SOMMERS (Building
Commissioner),

By their attorney,

Mary Ellen Nolan

Law Department
Room 615, City Hall
Boston, Massachusetts
(617) 725-4046

TENANT DEVELOPMENT CORPORATION,

By its attorneys,

CSAPLAR & BOK

John F. Bok
Mark S. Swartz

One Winthrop Square
Boston, Massachusetts 02110
(617) 357-4400

MEMORANDUM

11A
Doc. # 4765- approved
MD/JF

JUNE 12, 1986

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: RICARDO A. MILLET, ASSISTANT DIRECTOR FOR
COMMUNITY PLANNING AND DEVELOPMENT
MARIA FARIA, SOUTH END PROJECT COORDINATOR
KEVIN J. MORRISON, ASSISTANT GENERAL COUNSEL

SUBJECT: SOUTH END URBAN RENEWAL AREA PROJECT NO. R-56 MASS.
REUSE PARCELS SE-23, SE-22, SE-44, SE-20 AND SE-43
AMENDMENT TO LAND DISPOSITION AGREEMENT AND RELATED ACTIONS

On December 19, 1985, the Tenants Development Corporation was finally designated as the redeveloper of Reuse Parcels SE-23, SE-22, SE-44, SE-20 and SE-43, located at 395-397, 404-408 Massachusetts Avenue to develop the same as mixed-income housing.

On December 31, 1985, the Land Disposition Agreement, Deed and related agreements were executed and the appropriate documents were recorded. Since the Tenants' Development Corporation intended to syndicate the project in order to raise the necessary equity, the Land Disposition Agreement was executed with the Tenants' Development Corporation and/or TDC III Limited Partnership, whose general partner is TDC III Management, Inc., a wholly owned subsidiary of Tenants' Development Corporation, and the grantee in the Deed was TDC III Limited Partnership. Copies of the Land Disposition Agreement and the Deed as executed and recorded are enclosed.

The zoning variances for this project granted by the Board of Appeals were challenged in the Superior Court, DiCaprio, et al. v. Dennis, et al. (Civil Action No. 80901), wherein the plaintiffs sought to annul the variances and other relief. As a result of this litigation, the final commitment by and closing with the Massachusetts Housing Finance Agency (MHFA) was delayed. Negotiations with the plaintiffs have been finalized and a Settlement Agreement was entered into between the plaintiffs and Tenants' Development Corporation as of March 31, 1986. Based upon this agreement, a Stipulation of Dismissal was entered in the Superior Court on April 2, 1986. Copies of the Stipulation of Dismissal and the Settlement Agreement are also enclosed.

The Settlement Agreement necessitated design changes in the project which reduced the total number of units therein from 58 to 55. In addition, the estimated total development cost has been increased to \$6,478,550 from \$5,633,713. The project will be financed through a \$4,550,100 MHFA mortgage and \$1,928,450 in equity. The SHARP commitment previously awarded for this project in the amount of \$157,955 per year remains the same. Mortgage and SHARP recommitments

were approved by MHFA on June 10, 1986. The revised drawings and specifications for the project have been reviewed and approved by the Authority's Urban Design Department.

Because of the beforementioned changes in the project, Sections 301(a)(4) and 302(a) of the Land Disposition Agreement should be amended to reflect the foregoing. Due to the delay in the construction of the project, Sections 208 and 303(a) should be amended to provide an additional 210 days to commence construction.

A portion of a building owned by an abutter, Youth Enrichment Services, Inc. (YES), encroaches upon the land conveyed to TDC III Limited Partnership. As a result, TDC III Limited Partnership has agreed to transfer the land in question, approximately 140 square feet, to YES at no cost. This transfer must be approved by the Authority in accordance with Section 401(b) of the Land Disposition Agreement.

It is recommended that the Authority adopt the following votes:

VOTED: That the Land Disposition Agreement, dated December 31, 1985, by and between the Boston Redevelopment Authority (the "Authority") and Tenants' Development Corporation and/or TDC III Limited Partnership and the Deed, also dated December 31, 1985, from the Authority to TDC III Limited Partnership, respectively recorded with the Suffolk County Registry of Deeds, Book 12173, Page 58 and Book 12173, Page 106, are hereby ratified and approved.

VOTED: That the Director is hereby authorized for and on behalf of the Boston Redevelopment Authority (the "Authority") to execute an Amendment to the original Land Disposition Agreement, by and between the Authority and Tenants' Development Corporation and/or TDC III Limited Partnership, dated December 31, 1985 and recorded with the Suffolk County Registry of Deeds, Book 12173, Page 58, respectively amending, Sections 301(a)(4) and 302(a) to reduce the total number of housing units to be made available by the improvements to the property from fifty-eight (58) to fifty-five (55), Sections 208 and 303(a) to extend the time for commencement of construction by an additional two hundred and ten (210) days and containing such other changes as the Director deems necessary and appropriate.

VOTED: That TDC III Limited Partnership in accordance with Article IV, Section 401(b)(1) to (5) of the Land Disposition Agreement with the Boston Redevelopment Authority (the "Authority"), dated December 31, 1985 and recorded with the Suffolk County Registry of Deeds, Book 12173, Page 58, is hereby authorized to convey to Youth Enrichment Services, Inc. a portion of the land conveyed to said TDC III Limited Partnership by Deed from the Authority, dated December 31, 1985 and recorded in Suffolk Registry, Book 12173, Page 106, and that the instrument of conveyance and any related agreements between the parties are subject to prior approval in all respects by the Director of the Authority.

